

RECEIVED  
CITY CLERK'S OFFICE  
07 JUL 24 AM 8:07  
SAN DIEGO, CALIF. (P)

City of San Diego  
MEMORANDUM

DATE: <sup>23</sup> July 17, 2007  
~~TO: FROM:~~ CITY ATTORNEY – Catherine Bradley  
~~FROM: TO:~~ Office of the City Clerk – Mary Zumaya  
SUBJECT: Item 151 of the July 16, 2007 p.m. City Council Meeting

ITEM-151: Amendments to the Municipal Lobbying Ordinance.

(See memorandum from San Diego Ethics Commission dated 5/11/2007.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2007-137) ~~-(O-2007-137 PEN.)~~

Introduction of an Ordinance amending Chapter 2, Article 7, Division 40 of the San Diego Municipal Code by retitling and amending Section 27.4001; amending Sections 27.4002 and 27.4004; repealing Section 27.4005; amending Sections 27.4006 and 27.4007; retitling and amending Sections 27.4009 and 27.4010; amending Section 27.4012; repealing Sections 27.4013 and 27.4014; amending Sections 27.4015 and 27.4016; retitling and amending Section 27.4017; adding New Section 27.4018; retitling, amending, and renumbering previous Section 27.4018 to Section 27.4019; repealing Sections 27.4020 and 27.4021; retitling and amending Sections 27.4022, 27.4023, and 27.4024; adding Section 27.4030; amending and renumbering Section 27.4025 to Section 27.4040; amending and renumbering Section 27.4026 to Section 27.4041; adding Section 27.4045; amending and renumbering Section 27.4027 to Section 27.4050; amending and renumbering Section 27.4028 to Section 27.4055; and amending Chapter 2, Article 7, Division 35 by amending Section 27.3503, all relating to the City of San Diego Municipal Lobbying Ordinance.

RULES, OPEN GOVERNMENT, AND INTERGOVERNMENTAL RELATIONS  
COMMITTEE'S RECOMMENDATION:

On 3/7/2007, Rules voted 5 to 0 to approve. (Councilmembers Peters, Young, Maienschein, Frye, and Madaffer voted yea.)

**SUPPORTING INFORMATION:**

The proposed amendments to the Municipal Lobbying Ordinance are reflected in the Ordinance, Alternative A, Strike-Out Ordinance, and City Attorney Digest. The proposed reforms are extensive and are explained in detail in the memo from Stacey Fulhorst dated May 11, 2007. If adopted, the proposals will:

- 1) Change the registration threshold;
- 2) Require lobbying firms and organization lobbyists to register (instead of individual lobbyists) and disclose the activities of their officers and employees;
- 3) Require the disclosure of additional information on lobbyist registration forms and quarterly disclosure reports; and
- 4) Limit gifts to City Officials from lobbying firms and organization lobbyists to \$10 per month.

**FISCAL CONSIDERATIONS:** None.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

Approved by the Rules Committee on March 7, 2007.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

Public discussion at eighteen Ethics Commission meetings from November 2005 through April 2007, as well as public discussion at Rules Committee meetings on October 25, 2006, and March 7, 2007.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Persons who are compensated to contact City Officials for the purpose of influencing municipal decisions, as well as the firms and organizations who employ such persons.

Fulhorst

**COUNCIL ACTION WAS:**

Motion by Madaffer to **introduce** the Ordinance as amended by the City Attorney's recommendation, with the exclusions of Numbers 4 and 9.

Change the language pertaining to "gifts" not to include ticket or other admission to an event held as a non-profit entity.

Refer the Mayor's Memorandum issue on "prohibiting political contributions from registered lobbyists" to the Ethics Commission and to the Rules Committee.

**COUNCIL VOTE WAS:**

Unanimous; all present.

**Please prepare the Ordinance as amended within 48 hours to reflect Council's Action using the appropriate language, and return to the City Clerk's Office, Docket Division for adoption.**

Attorney number O-2007-137 has been assigned to this action.

ELIZABETH S. MALAND  
City Clerk

By: Mary Zumaya, Deputy City Clerk

Office of  
The City Attorney  
City of San Diego

MEMORANDUM  
MS 59

(619) 236-6220

**DATE:** July 23, 2007  
**TO:** City Clerk  
**FROM:** City Attorney  
**SUBJECT:** Item 151 of the July 16, 2007 City Council Meeting  
Amendments to the Municipal Lobbying Ordinance (O-2007-137 REV.)

---

On July 16, 2007, the City Council introduced a slightly modified version of the amendments to the Lobbying Ordinance as proposed by the City Ethics Commission. (O-2007-137). The revised sections are summarized below by the source of the changes.

I.

As proposed by the Ethics Commission in Alternative A, the definition of "City Official" in section 27.4004 should read as follows:

**§27.4002 Definitions**

*City Official* means any of the following officers or employees of the *City*, which includes all *City* agencies: elected officeholder; Council staff member; Council Committee Consultant; Council Representative; Assistant City Attorney; Deputy City Attorney; General Counsel; Chief; Assistant Chief; Deputy Chief; Assistant Deputy Chief; City Manager; Assistant City Manager; Deputy City Manager; Management Assistant to City Manager; Treasurer; Auditor and Comptroller; Independent Budget Analyst; Budget/Legislative Analyst; Financial Operations Manager; City Clerk; Labor Relations Manager; Retirement Administrator; Director; Assistant Director; Deputy Director; Assistant Deputy Director; Chief Executive Officer; Chief Operating Officer; Chief Financial Officer; President; and Vice-President. *City Official* also means any member of a *City Board*.

## II.

As amended by interlineation at the hearing, the definition of "gift" for purposes of this ordinance, is modified to include an additional exception, incorporated as the last sentence of the definition as follows:

### §27.4002 Definitions

*Gift* means any *payment* that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. Any *person*, other than a defendant in a criminal action, who claims that a *payment* is not a *gift* by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value. *Gifts* are subject to the exceptions set forth in Municipal Code section 27.3525. *Gifts* do not include a ticket, invitation, or other admission privilege to an event held for a non-profit entity.

## III.

The modifications to various sections as recommended by the City Attorney in the specified paragraphs of the Conclusion and Recommendations of the City Attorney Report 2007-12 (July 13, 2007) [Report] as follows:

### §27.4002 Definitions

*Candidate* means any individual who is holding elective *City* office or otherwise meets the definition of "candidate" under section 27.2903. (Report, paragraph 8.)

*Contact* means the act of engaging in a *direct communication* with a *City Official* for the purpose of *influencing a municipal decision*. For purposes of this definition: . . . .

- (c) multiple identical or substantially similar written communications made by letter, facsimile or electronic mail to one or more *City Officials* pertaining to a single *municipal decision* may be considered a single *contact* for that *municipal decision*. (Report, paragraph 3.)

*Municipal decision* includes:

- (a) the drafting, introduction, consideration, reconsideration, adoption, defeat, repeal, or veto of any ordinance or resolution; and . . .
- (c) a report by a *City Official* to the *City Council*, a *City Council Committee*, or to the Mayor; and . . . . (Report, paragraph 5.)

*Organization lobbyist* means any business or organization, including any non-profit entity, that provides *compensation* to one or more employees for the purpose of *lobbying* on behalf of the business or organization and who have a total of 10 or more separate *contacts* with one or more *City Officials* for that purpose within 60 consecutive calendar days. An employee of any parent or subsidiary of the business or organization is considered an employee of that entity. "Employees" of an *organization lobbyist* include the owners, officers, and employees of the business or organization. (Report, paragraph 2.)

**§27.4004        Exceptions**

- (c) any *person* whose sole activity includes one or more of the following:  
[Remainder of section unchanged] (Report, paragraph 6.)

**§27.4009(a)(9)   Contents of Registration Form**

- (9) any other information required by regulation of the *Enforcement Authority* consistent with the purposes and provisions of this division, and as approved by the City Council. (Report, paragraph 6.)

**§27.4009(b)(11) Contents of Registration Form**

- (11) any other information required by regulation of the *Enforcement Authority* consistent with the purposes and provisions of this division, and as approved by the City Council. (Report, paragraph 6.)

**§27.4017(a)(11) Contents of Quarterly Disclosure Report**

- (11) any other information required by regulation of the *Enforcement Authority* consistent with the purposes and provisions of this division, and as approved by the City Council. (Report, paragraph 6.)

**§27.4017(b)(2)(C) Contents of Quarterly Disclosure Report**

- (C) the name of each owner, officer, or employee of the *organization lobbyist* who engaged in *lobbying activities* on behalf of the *organization lobbyist* during the reporting period with regard to that specific *municipal decision*; and, . . . (Report, paragraph 2.)

**§27.4017(b)(11) Contents of Quarterly Disclosure Report**

- (11) any other information required by regulation of the *Enforcement Authority* consistent with the purposes and provisions of this division, and as approved by the City Council. (Report, paragraph 6.)

**§27.4017(c)(6) Contents of Quarterly Disclosure Report**

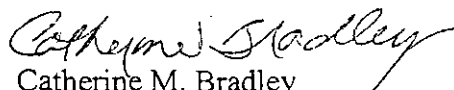
- (6) any other information required by regulation of the *Enforcement Authority* consistent with the purposes and provisions of this division, and as approved by the City Council. (Report, paragraph 6.)

**§27.4024 Employment of City Official by Lobbying Entity**

If any *lobbying entity* employs or retains a current *City Official*, or any member of that official's *immediate family*, that *lobbying entity* shall file a written statement with the *City Clerk* within ten calendar days after such employment commences. This statement shall set forth the name of the individual employed, the date the individual was first employed by the *lobbying entity*, and the individual's position, title, and department in the *City*. (Report, paragraph 1.)

Attached are the revised ordinance, strike-out, and digest. Please add these documents to the record for this item prior to the hearing to adopt the ordinance. If you have any questions regarding this matter, please feel free to contact us.

MICHAEL J. AGUIRRE, City Attorney

By   
Catherine M. Bradley  
Chief Deputy City Attorney

CMB:als

54  
7/31

CITY ATTORNEY DIGEST

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

EFFECTIVE DATE \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 7, DIVISION 40 OF THE SAN DIEGO MUNICIPAL CODE BY RETITLING AND AMENDING SECTION 27.4001; AMENDING SECTIONS 27.4002 AND 27.4004; REPEALING SECTION 27.4005; AMENDING SECTIONS 27.4006 AND 27.4007; RETITLING AND AMENDING SECTIONS 27.4009 AND 27.4010; AMENDING SECTION 27.4012; REPEALING SECTIONS 27.4013 AND 27.4014; AMENDING SECTIONS 27.4015 AND 27.4016; RETITLING AND AMENDING SECTION 27.4017; ADDING NEW SECTION 27.4018; RETITLING, AMENDING, AND RENUMBERING PREVIOUS SECTION 27.4018 TO SECTION 27.4019; REPEALING SECTIONS 27.4020 AND 27.4021; RETITLING AND AMENDING SECTIONS 27.4022, 27.4023, AND 27.4024; ADDING SECTION 27.4030; AMENDING AND RENUMBERING SECTION 27.4025 TO SECTION 27.4040; AMENDING AND RENUMBERING SECTION 27.4026 TO SECTION 27.4041; ADDING SECTION 27.4045; AMENDING AND RENUMBERING SECTION 27.4027 TO SECTION 27.4050; AMENDING AND RENUMBERING SECTION 27.4028 TO SECTION 27.4055; AND AMENDING CHAPTER 2, ARTICLE 7, DIVISION 35 BY AMENDING SECTION 27.3503, ALL RELATING TO THE CITY OF SAN DIEGO MUNICIPAL LOBBYING ORDINANCE.

This ordinance makes changes to Chapter 2, Article 7, Division 40 of the San Diego Municipal Code, which contains the City's Municipal Lobbying Ordinance. It makes a number of substantive changes to the Lobbying Ordinance with regard to applicable thresholds for qualifying as a lobbyist; the identity of the City Officials who may be the subject of a lobbying communication; the nature of information disclosed on registration forms and quarterly reports; limits on lobbyists' gifts to City Officials; and the definitions applicable to this division.



This ordinance expands the purpose and intent of the Lobbying Ordinance, and in particular states that this ordinance is intended to: ensure that the citizens of San Diego have access to information about the use of paid lobbyists to influence municipal decisions; provide clear and unambiguous disclosure requirements; prohibit the improper influence over City Officials; promote transparency; avoid corruption and the appearance of corruption; reinforce public trust in the integrity of local government; and regulate lobbying activities in a manner that *does not discourage or prohibit the exercise of constitutional rights.*

This ordinance makes minor and major changes to the definitions applicable to the division. In particular, it narrows the definition of "City Official" to include only those positions expressly listed in the ordinance. Accordingly, communications with anyone not identified as a "City Official" in the ordinance are not considered "lobbying." This ordinance also clarifies that a lobbying firm's "clients" may include one or more individual members of a coalition or membership organization. In this regard, it would require a lobbying firm to identify as a "client" on its registration form any member of a coalition or membership organization who has paid, or agreed to pay, \$1,000 or more to the firm for the purpose of lobbying on a specific municipal decision.

Under this ordinance, a lobbying firm will be required to register with the City Clerk if it receives, or becomes entitled to receive, any amount of compensation for engaging in lobbying activities on behalf of any other person, so long as the firm has at least one direct communication with a City Official for the purpose of influencing a municipal decision. This firm-based threshold replaces the \$2,730 individual compensation threshold in place in past versions of the Lobbying Ordinance.

Under this ordinance, a business or organization, including a non-profit organization, must register as an "organization lobbyist" if it pays compensation to one or more employees who have a total of 10 or more separate contacts with City Officials within a 60 day period. This organization-wide contacts threshold replaces the \$2,730 individual compensation threshold in place in past versions of the Lobbying Ordinance.

This ordinance also requires entities to register with the City Clerk within ten days of qualifying as a lobbying firm or organization lobbyist. Requiring the firm or organization to register is a change from previous versions of the Lobbying Ordinance, which required individual lobbyists to register. On its registration form, a lobbying firm must disclose information identifying the firm, the firm's clients, the types of municipal decisions it will seek to influence on behalf of those clients, and the individuals in the firm who have engaged, or are expected to engage, in lobbying activities. An organization lobbyist (referred to as a "lobbyist employer" in previous versions of the Lobbying Ordinance) must disclose information identifying itself and the nature of its business, the names of individuals authorized to lobby the City, the total number of contacts with City Officials during the previous 60 days, and a description of any municipal decisions it has sought to influence during the previous 60 days. For both lobbying firms and organization lobbyists, this ordinance also requires the disclosure of information on the registration form relating to the following activities engaged in by owners, officers, and lobbyists during the preceding two years: fundraising activities, compensated campaign related services, and compensated services performed under a City contract. The ordinance contains a clause exempting from disclosure any of these activities that are performed prior to January 1, 2007.

Past versions of the Lobbying Ordinance have identified specific registration fee amounts. In contrast, this ordinance imposes no particular registration fee amount, but establishes that the fee shall be set by the City Council based on the recommendations of the City Clerk, and memorialized in the rate book on fees on file in the office of the City Clerk. This ordinance requires that a lobbying firm's registration fee shall be based on the number of lobbyists and clients identified on its registration form. Organization lobbyists are required to pay a flat fee regardless of the number of individuals in the organization who engage in lobbying activities.

This ordinance requires that amendments to the registration form be made within 10 calendar days of any changes to the information required to be disclosed.

This ordinance also introduces a new type of lobbyist: the expenditure lobbyist. This type of lobbyist does not necessarily have direct communications with City Officials for the purpose of influencing municipal decisions, but instead seeks to influence such decisions through indirect means, such as public relations, media relations, advertising, public outreach, research, investigations, reports, analysis, studies, and similar activities. Expenditure lobbyists do not register as lobbyists, but do have quarterly reporting obligations for any calendar quarter in which they spend \$5,000 or more on efforts to influence municipal decisions.

This ordinance requires lobbying firms, organization lobbyists, and expenditure lobbyists to file quarterly disclosure reports no later than the last day of April, July, October, and January, for the immediately preceding calendar quarter. Lobbying firms must disclose identifying information regarding the firm, its lobbyists, its clients, its activity expenses, the municipal decisions it sought to influence on behalf of those clients, the names and departments of City Officials lobbied, and the total compensation it became entitled to receive from each client.

Lobbying firms must also disclose campaign contributions made to candidates and candidate-controlled committees, fundraising activities, and compensated services to a campaign or in connection with a City contract. An organization lobbyist must disclose identifying information regarding itself, its lobbyists, its activity expenses, the municipal decisions it sought to influence, the names and departments of City Officials lobbied, and the total number of lobbying contacts. Organization lobbyists must also disclose campaign contributions made to candidates and candidate-controlled committees, fundraising activities, and compensated services to a campaign or in connection with a City contract. An expenditure lobbyist must report information identifying itself, a description of any municipal decisions it sought to influence, the total amount it paid to influence each decision, and the names of any entities who paid \$100 or more to the expenditure lobbyist to help fund the expenditure.

This ordinance requires that amendments to the quarterly disclosure report be made within 10 calendar days of the discovery of any incomplete or inaccurate information.

This ordinance also requires lobbying entities to keep records for five years; allows lobbying firms and organization lobbyists to terminate their status as a lobbying entity under specified circumstances; imposes various obligations on individual lobbyists, such as refraining from actions that would place a City Official under a personal obligation; requires lobbying entities to notify the City Clerk upon hiring any City Officials or members of a City Official's immediate family; imposes a \$10 per month limit on gifts from a lobbying firm or organization lobbyist; excludes tickets, invitations, and any other admission privilege to an event held for a non-profit entity from the definition of "gift" for purposes of the division's gift limits and reporting requirements; requires that lobbying disclosure forms be filed electronically when the

City Clerk has developed an electronic filing system; and sets forth the powers and duties of the City Clerk and the Ethics Commission.

This ordinance also makes changes to several definitions in the City's Ethics Ordinance to ensure consistency between the Municipal Lobbying Ordinance and the Ethics Ordinance on matters pertaining to lobbyists.

This ordinance contains a notice that a full reading of the ordinance is dispensed with prior to its passage because a written or printed copy will be available to the City Council and the public prior to the day of its passage.

This ordinance shall take effect and be in force on January 1, 2008.

A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

CMB:als

06/28/07

07/20/07REV.

Or.Dept:Ethics

O-2007-137

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 7, DIVISION 40 OF THE SAN DIEGO MUNICIPAL CODE BY RETITLING AND AMENDING SECTION 27.4001; AMENDING SECTIONS 27.4002 AND 27.4004; REPEALING SECTION 27.4005; AMENDING SECTIONS 27.4006 AND 27.4007; RETITLING AND AMENDING SECTIONS 27.4009 AND 27.4010; AMENDING SECTION 27.4012; REPEALING SECTIONS 27.4013 AND 27.4014; AMENDING SECTIONS 27.4015 AND 27.4016; RETITLING AND AMENDING SECTION 27.4017; ADDING NEW SECTION 27.4018; RETITLING, AMENDING, AND RENUMBERING PREVIOUS SECTION 27.4018 TO SECTION 27.4019; REPEALING SECTIONS 27.4020 AND 27.4021; RETITLING AND AMENDING SECTIONS 27.4022, 27.4023, AND 27.4024; ADDING SECTION 27.4030; AMENDING AND RENUMBERING SECTION 27.4025 TO SECTION 27.4040; AMENDING AND RENUMBERING SECTION 27.4026 TO SECTION 27.4041; ADDING SECTION 27.4045; AMENDING AND RENUMBERING SECTION 27.4027 TO SECTION 27.4050; AMENDING AND RENUMBERING SECTION 27.4028 TO SECTION 27.4055; AND AMENDING CHAPTER 2, ARTICLE 7, DIVISION 35 BY AMENDING SECTION 27.3503, ALL RELATING TO THE CITY OF SAN DIEGO MUNICIPAL LOBBYING ORDINANCE.

WHEREAS, pursuant to San Diego Municipal Code section 26.0414, the City of San Diego Ethics Commission has the responsibility of regularly reviewing the San Diego Municipal Lobbying Ordinance and proposing updates to the City Council for its approval; and

WHEREAS, the San Diego Municipal Lobbying Ordinance, codified at Chapter 2, Article 7, Division 40 of the San Diego Municipal Code, has not been substantively amended since May 30, 2000, by Ordinance No. O-18807 N.S., prior to the creation of the Ethics Commission; and

WHEREAS, the act of lobbying City Officials has a valuable and fundamental place in the efficient operation of City government; and

WHEREAS, there is a public interest in regulating the lobbying activities of those individuals and entities who are paid to influence municipal decisions; and

WHEREAS, there is a public interest in regulating the lobbying activities of those individuals and entities who spend money to influence municipal decisions through public relations, advertising, and similar means; and

WHEREAS, during the course of its investigations, the Ethics Commission has encountered significant problems enforcing the Municipal Lobbying Ordinance, particularly with regard to the identification of those who are considered "lobbyists" under the Ordinance; and

WHEREAS, there are many examples, locally and throughout the country, of actual corruption or the appearance of corruption in relationships between lobbyists and elected officials; and

WHEREAS, there is an appearance of corruption in instances where a lobbyist fundraises large sums of money for a candidate for elective City office, and then later seeks to influence that candidate-turned-officeholder with regard to a pending municipal decision; and

WHEREAS, there is an appearance of undue influence in instances where a lobbyist develops a special relationship with a City Official after working on that official's election campaign or providing services through a City contract, and then later seeks to influence that City Official with regard to a pending municipal decision; and

WHEREAS, there is an appearance of undue influence in instances where a lobbyist gives gifts to a City Official, and then later seeks to influence that official with regard to a pending municipal decision; and

WHEREAS, requiring additional disclosures and imposing stricter gift limits by the individuals and entities that engage in lobbying activities will promote transparency with regard to activities directly and indirectly related to lobbying, reduce the potential for lobbyists to exert improper influence over City Officials, reinforce public trust in the integrity of local government, and reduce corruption or the appearance of corruption in the lobbying arena; and

WHEREAS, the Ethics Commission, after a year and a half of public workshops on the subject of clarifying and strengthening the Municipal Lobbying Ordinance, has proposed to the City Council a number of amendments to the Ordinance that will impose clear and unambiguous registration and disclosure requirements, provide the public with additional relevant information regarding compensated efforts to influence municipal decisions, and make numerous other changes designed to improve the Ordinance, while still protecting the First Amendment rights of those who seek to influence municipal decisions; and

WHEREAS, the City Council concurs with the proposals recommended by the Ethics Commission; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by retitling and amending section 27.4001 to read as follows:

**§27.4001 Purpose and Intent**

It is the purpose and intent of the City Council of the City of San Diego in enacting this division to: ensure that the citizens of the City of San Diego have access to information about persons who attempt to influence decisions of City government through the use of paid lobbyists; establish clear and unambiguous registration and disclosure requirements for lobbyists in order to provide the public with relevant information regarding the financing of lobbyists and the full range of lobbying activities; prohibit registered lobbyists from exerting improper influence over City Officials or from placing City Officials under personal obligation to lobbyists or their clients; promote transparency concerning attempts to influence municipal decisions; avoid corruption and the appearance of corruption in the City's decision-making processes; regulate lobbying activities in a manner that does not discourage



or prohibit the exercise of constitutional rights; reinforce public trust in the integrity of local government; and ensure that this division is vigorously enforced.

Section 2. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by amending sections 27.4002 and 27.4004 to read as follows:

**§27.4002      Definitions**

All defined terms in this division appear in italics. Unless the context otherwise indicates, the defined terms have the meanings set forth below.

*Activity Expense* means any *payment* made to, or on behalf of, any *City Official* or any member of a *City Official's immediate family*, by a *lobbyist*, *lobbying firm*, or *organization lobbyist*. *Activity expenses* include *gifts*, *meals*, *consulting fees*, *salaries*, and any other form of *compensation* to a *City Official* or a *City Official's immediate family*, but do not include campaign contributions.

*Agent* means a *person* who acts on behalf of any other *person*. *Agent* includes a *person* who acts on behalf of a *lobbyist*.

*Candidate* means any individual who is holding elective *City* office or otherwise meets the definition of "candidate" under section 27.2903.

*City* means the City of San Diego or any of its organizational subdivisions, agencies, offices, or boards.

*City Board* includes the boards of directors of all *City* agencies, and any board, commission, committee, or task force of the *City* established by action of the *City* Council under authority of the *City* Charter, Municipal Code, or Council resolution, whose members are required to file a statement of economic interests pursuant to the California Political Reform Act of 1974, as amended.

*City Official* means any of the following officers or employees of the *City*, which includes all *City* agencies: elected officeholder; Council staff member; Council Committee Consultant; Council Representative; Assistant City Attorney; Deputy City Attorney; General Counsel; Chief; Assistant Chief; Deputy Chief; Assistant Deputy Chief; City Manager; Assistant City Manager; Deputy City Manager; Management Assistant to City Manager; Treasurer; Auditor and Comptroller; Independent Budget Analyst; Budget/Legislative Analyst; Financial Operations Manager; City Clerk; Labor Relations Manager; Retirement Administrator; Director; Assistant Director; Deputy Director; Assistant Deputy Director; Chief Executive Officer; Chief Operating Officer; Chief Financial Officer; President; and Vice-President. *City Official* also means any member of a *City Board*.

*Client* means any person who provides *compensation* to a *lobbying firm* for the purpose of *influencing a municipal decision*, and any person on whose behalf *lobbying activities* are performed by a *lobbying firm*.

- (a) *Client* includes any person that retains a *lobbying firm* to engage in *lobbying activities* pursuant to a contingency agreement.
- (b) If a coalition or membership organization is a *client*, a member of that coalition or organization is not also a *client* unless that member paid, or agreed to pay, at least \$1,000 to the *lobbying firm* for *lobbying activities* performed on behalf of the coalition or organization with regard to a specific *municipal decision*. For purposes of this subsection, if a member is an individual, payments by that individual's *immediate family* are attributable to that individual member.

*Compensation* means any economic consideration for services rendered or to be rendered. *Compensation* does not include reimbursement for *travel expenses*.

*Contact* means the act of engaging in a *direct communication* with a *City Official* for the purpose of *influencing a municipal decision*. For purposes of this definition:

- (a) each discussion with a *City Official* regarding a different *municipal decision* is considered a separate *contact*;
- (b) each discussion regarding a *municipal decision* with a *City Official* and members of that official's immediate staff, or with multiple immediate staff members of the same *City Official*, is considered a separate *contact*;
- (c) multiple identical or substantially similar written communications made by letter, facsimile or electronic mail to one or more *City Officials* pertaining to a single *municipal decision* may be considered a single *contact* for that *municipal decision*.

*Direct communication* means:

- (a) talking to (either by telephone or in person); or
- (b) corresponding with (either in writing or by electronic transmission or facsimile machine).

*Enforcement Authority* means the City of San Diego Ethics Commission. Nothing in this article limits the authority of the City Attorney, any law enforcement agency, or any prosecuting attorney to enforce the provisions of this article under any circumstances where the City Attorney, law enforcement agency, or prosecuting attorney otherwise has lawful authority to do so.

*Expenditure lobbyist* means any *person* who makes expenditures for public relations, media relations, advertising, public outreach, research, investigation, reports, analyses, studies, or similar activities designed to influence one or more *municipal decisions*, to the extent that such *payments* total \$5,000 or more within a calendar quarter. An expenditure is made on the date a *payment* is made or on the date consideration, if any, is received by the *expenditure lobbyist*, whichever is earlier. Expenditures for *lobbying activities* reported by a *lobbying firm* or *organization lobbyist* on a quarterly disclosure report shall not be considered for purposes of calculating the \$5,000 threshold.

*Fundraising activity* means soliciting, or directing others to solicit, campaign contributions from one or more contributors, either personally or by hosting or sponsoring a fundraising event, and either (a) personally delivering \$1,000 or more in contributions to a *candidate* or to a *candidate's* controlled committee, or (b) identifying oneself to a *candidate* or a *candidate's* controlled committee as having any degree of responsibility for \$1,000 or more in contributions received as a result of that solicitation.

*Gift* means any *payment* that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. Any *person*, other than a defendant in a criminal action, who claims that a *payment* is not a *gift* by reason of receipt of consideration has the burden of proving that the consideration received, is of equal or greater value. *Gifts* are subject to the exceptions set forth in

Municipal Code section 27.3525. *Gifts* do not include a ticket, invitation, or other admission privilege to an event held for a non-profit entity.

*Immediate family* means an individual's spouse or registered domestic partner, and any dependent children.

*Influencing a municipal decision* means affecting or attempting to affect any action by a *City Official* on one or more *municipal decisions* by any method, including promoting, supporting, opposing, or seeking to modify or delay such action.

*Influencing a municipal decision* also includes providing information, statistics, analysis, or studies to a *City Official*.

*Lobbying* means *direct communication* with a *City Official* for the purpose of *influencing a municipal decision* on behalf of any other person.

*Lobbying activities* means the following and similar activities that are related to an attempt to *influence a municipal decision*: (a) *lobbying*; (b) monitoring *municipal decisions*; (c) preparing testimony and presentations; (d) engaging in research, investigation, and fact-gathering; (e) attending hearings; (f) communicating with clients; and (g) waiting to meet with *City Officials*.

*Lobbying entity* means any *lobbying firm*, *organization lobbyist*, or *expenditure lobbyist*.

*Lobbying firm* means any entity that receives or becomes entitled to receive any amount of monetary or in-kind *compensation* to engage in *lobbying activities* on behalf of any other person, and that has at least one *direct communication* with a *City Official* for the purpose of *influencing a municipal decision*. A *lobbying firm*

includes any entity that engages in *lobbying activities* on behalf of another *person* pursuant to a contingency fee agreement.

*Lobbyist* means any individual who engages in *lobbying activities* on behalf of a *client* or an *organization lobbyist*.

*Ministerial action* means any action that does not require a *City Official* to exercise discretion concerning any outcome or course of action. A *ministerial action* includes, but is not limited to, decisions on private land development made pursuant to Process 1 as described in Chapter 11 of the Municipal Code.

*Municipal decision* includes:

- (a) the drafting, introduction, consideration, reconsideration, adoption, defeat, repeal, or veto of any ordinance or resolution; and
- (b) the amendment of any ordinance or resolution; and
- (c) a report by a *City Official* to the *City Council*, a *City Council Committee*, or to the Mayor; and
- (d) contracts; and
- (e) quasi-judicial decisions, including:
  - (1) any decision on a land development permit, map or other matter decided pursuant to Process 2 through 5 as described in Chapter 11 of this Municipal Code; and
  - (2) any grant of, denial of, modification to, or revocation of a permit or license under Chapter 1 through 10 of this Municipal Code; and
  - (3) any declaration of debarment as described in Chapter 2, Article 2, Division 8, of this Municipal Code; and

(f) any other decision of the *City Council* or a *City Board*.

*Organization lobbyist* means any business or organization, including any non-profit entity, that provides *compensation* to one or more employees for the purpose of *lobbying* on behalf of the business or organization and who have a total of 10 or more separate *contacts* with one or more *City Officials* for that purpose within 60 consecutive calendar days. An employee of any parent or subsidiary of the business or organization is considered an employee of that entity. "Employees" of an *organization lobbyist* include the owners, officers, and employees of the business or organization.

*Payment* means a payment, distribution, transfer, loan, advance, deposit, *gift* or other rendering of money, property, services, or anything else of value, whether tangible or intangible.

*Person* means any individual, business entity, trust, corporation, association, committee, or any other organization or group of *persons* acting in concert.

*Public hearing* means any meeting as defined by the Ralph M. Brown Act where a public record is kept of who spoke and who was represented by a *lobbyist* testifying at that hearing.

*Public official* means an elected or appointed officer or employee or officially designated representative, whether compensated or not, of the United States or any of its agencies; the State of California; the *City*; any political subdivision of the State, including counties and districts; or any public corporation, agency, or commission.

*Travel expenses* means reasonable expenses for transportation plus a reasonable sum for food and lodging.

**§27.4004 Exceptions**

The following *persons* and activities are exempt from the requirements of this division:

- (a) a *public official* acting in his or her official capacity and any government employee acting within the scope of his or her employment;
- (b) any newspaper or other regularly published periodical, radio station, or television station (including any individual who owns, publishes, or is employed by any such newspaper, periodical, radio station, or television station) that in the ordinary course of business publishes news items, editorials, or other comments or paid advertisements that directly or indirectly urge action on a *municipal decision*, if such newspaper, periodical, radio station, television station, or individual engages in no other activities to *influence a municipal decision*;
- (c) any *person* whose sole activity includes one or more of the following:
  - (1) to submit a bid on a competitively bid contract;
  - (2) to submit a written response to a request for proposals or qualifications;
  - (3) to participate in an oral interview for a request for proposals or qualifications; or,
  - (4) to negotiate the terms of a contract or agreement with the *City*, once the *City* has authorized either by action of the *City Council*, *City Manager*, or voters, entering an agreement with that *person* whether that *person*



has been selected pursuant to a bid, request for proposals or qualifications, or by other means of selection recognized by law.

- (5) to communicate in connection with the administration of an existing contract between the *person* and the *City*.
- (d) any request for advice regarding, or for an interpretation of, laws, regulations, *City* approvals, or policies;
- (e) any communication by an attorney with regard to his or her representation of a party or potential party to pending or actual litigation, or to a pending or actual administrative enforcement proceeding, brought by or against the *City*, or *City* agent, officer, or employee;
- (f) any communication concerning a *ministerial action*;
- (g) any communication concerning the establishment, amendment, administration, implementation, or interpretation of a collective bargaining agreement or memorandum of understanding between the *City* and a recognized employee organization, or concerning a proceeding before the Civil Service Commission;
- (h) any communication concerning management decisions regarding the working conditions of represented employees that clearly relate to the terms of collective bargaining agreements or memoranda of understanding pursuant to (g) above;
- (i) solely responding to questions from any *City Official*, or providing oral or written information in response to a subpoena or as otherwise compelled by law;
- (j) solely appearing as a speaker at, or providing written statements that become part of the record of, a *public hearing*;

- (k) any direct response to an enforcement proceeding with the *City*.
- (l) the provision of purely technical data or analysis to a *City Official* by an expert, so long as the expert does not otherwise engage in *direct communication* for the purpose of *influencing a municipal decision*. This subsection is intended to be interpreted in a manner consistent with title 2, section 18239(d)(3)(A) of the California Code of Regulations.
- (m) the publishing of any information on an Internet website that is accessible to the general public.

Section 3. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by repealing section 27.4005.

Section 4. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by amending sections 27.4006 and 27.4007 to read as follows:

**§27.4006      Activity Expense on Behalf of Client**

An *activity expense* shall be considered to be made on behalf of a *client* if the *client* requests, authorizes, or reimburses the expense.

**§27.4007      Registration Required**

- (a) Every *lobbying firm* and *organization lobbyist* is required to register with the *City Clerk* no later than ten calendar days after qualifying as a *lobbying firm* or *organization lobbyist*.
- (b) *Lobbying firms* and *organization lobbyists* shall file their registration forms with the *City Clerk*, using forms provided by the *City Clerk*.
- (c) Nothing in this division precludes an entity from registering as a *lobbying firm* or *organization lobbyist* prior to qualifying as such.
- (d) An entity that registers as a *lobbying firm* or *organization lobbyist* retains that status through January 5 of the following calendar year unless and until it

terminates that status in accordance with section 27.4022. An entity that continues to qualify as a *lobbying firm* or *organization lobbyist* on January 5 shall renew that registration on or before January 15 of each year.

Section 5. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by retitling and amending sections 27.4009 and 27.4010 to read as follows:

**§27.4009      Contents of Registration Form**

- (a) Every *lobbying firm* shall file with the City Clerk a registration form that contains the following information:
  - (1) the *lobbying firm's* name, address, and telephone number.
  - (2) the name of each individual employed by the *lobbying firm*:
    - (A) who has engaged in *lobbying* the City within the previous 30 calendar days, or
    - (B) who the *lobbying firm* reasonably anticipates will engage in *lobbying* the City in the future.
  - (3) a listing of all owners, officers, and *lobbyists* of the *lobbying firm* who engaged in *fundraising activities* for a current elected City Official during the two year period preceding the filing date, along with the name of each applicable City Official. Notwithstanding the requirements of this subsection, *lobbying firms* have no obligation to report *fundraising activities* that took place prior to January 1, 2007.
  - (4) a listing of all owners, officers, and *lobbyists* of the *lobbying firm* who personally provided compensated campaign-related services to a current elected City Official during the two year period preceding the filing date, along with the name of each applicable City Official. Notwithstanding the requirements of this subsection, *lobbying firms*

have no obligation to report campaign-related services that were rendered prior to January 1, 2007.

- (5) a listing of all owners, officers, and *lobbyists* of the *lobbying firm* who personally provided compensated services under a contract with the *City* during the two year period preceding the filing date, along with the name of the *City* department, agency, or board for which the services were provided. Notwithstanding the requirements of this subsection, *lobbying firms* have no obligation to report compensated services provided prior to January 1, 2007.
- (6) for each *client* for whom the *lobbying firm* engages in *lobbying activities*:
  - (A) the *client's* name, business or mailing address, and telephone number; in addition, if the *client* is a coalition or membership organization, include the name, business or mailing address, and telephone number of each member who also qualifies as a *client* under section 27.4002.
  - (B) a specific description of each *client* in sufficient detail to inform the public of the nature and purpose of the *client's* business; and,
  - (C) the specific *municipal decision(s)* for which the *lobbying firm* was retained to represent the *client*, or a description of the type(s) of *municipal decision(s)* for which the *lobbying firm* was retained to represent the *client*, and the outcome(s) sought by the *client*;

- (7) statements by a duly authorized owner or officer of the *lobbying firm* that he or she:
  - (A) reviewed and understands the requirements of Division 40 governing municipal lobbying; and,
  - (B) reviewed the contents of the registration form and verified under penalty of perjury that based on personal knowledge or on information and belief, that he or she believes such contents to be true, correct, and complete.
- (8) the printed name, title, and original signature of the individual making the statements required by subsection (a)(7).
- (9) any other information required by the *Enforcement Authority* consistent with the purposes and provisions of this division, and as approved by the *City Council*.
- (b) Every *organization lobbyist* shall file with the *City Clerk* a registration form that contains the following information:
  - (1) the *organization lobbyist's* name, address, and telephone number.
  - (2) a specific description of the *organization lobbyist* in sufficient detail to inform the public of the nature and purpose of its business.
  - (3) the name of each owner, officer, and employee of the *organization lobbyist* who is authorized to *lobby City Officials* on behalf of the *organization lobbyist*.
  - (4) the total number of *lobbying contacts* with *City Officials* made on behalf of the *organization lobbyist* by the *organization lobbyist's* owners, officers, or employees during the 60 calendar days preceding the filing date.

- (5) a description of each *municipal decision* the *organization lobbyist* has sought to influence during the 60 calendar days preceding the filing date; and the outcome sought by the *organization lobbyist*.
- (6) a listing of all owners, compensated officers, and *lobbyists* of the *organization lobbyist* who engaged in *fundraising activities* for a current elected *City Official* during the two year period preceding the filing date, along with the name of each applicable *City Official*.  
Notwithstanding the requirements of this subsection, *organization lobbyists* have no obligation to report *fundraising activities* that took place prior to January 1, 2007.
- (7) a listing of all owners, compensated officers, and *lobbyists* of the *organization lobbyist* who personally provided compensated campaign-related services to a current elected *City Official* during the two year period preceding the filing date, along with the name of each applicable *City Official*. Notwithstanding the requirements of this subsection, *organization lobbyists* have no obligation to report campaign-related services that were rendered prior to January 1, 2007.
- (8) a listing of all owners, compensated officers, and *lobbyists* of the *organization lobbyist* who personally provided compensated services under a contract with the *City* during the two year period preceding the filing date, along with the name of the *City* department, agency, or board for which the services were provided. Notwithstanding the requirements of this subsection, *organization lobbyists* have no

obligation to report compensated services provided prior to January 1, 2007.

- (9) statements by a duly authorized owner or officer of the *organization lobbyist* that he or she:
  - (A) reviewed and understands the requirements of Division 40 governing municipal lobbying; and,
  - (B) reviewed the contents of the registration form and verified under penalty of perjury that based on personal knowledge or on information and belief, that he or she believes such contents to be true, correct, and complete.
- (10) the printed name, title, and original signature of the individual making the statements required by subsection (b)(9).
- (11) any other information required by the *Enforcement Authority* consistent with the purposes and provisions of this division, and as approved by the *City Council*.

**§27.4010 Registration Fees**

- (a) At the time a *lobbying firm* registers pursuant to section 27.4007, the *lobbying firm* shall pay an annual registration fee based on the number of *lobbyists* identified on its registration form, plus an annual *client* registration fee for each *client* identified on the registration form.
  - (1) A *lobbying firm* that initially qualifies to register during the last quarter of a calendar year (October through December) pursuant to section 27.4007 shall pay prorated registration fees.
  - (2) When a *lobbying firm* adds a *lobbyist* subsequent to the *lobbying firm's* initial registration, the *lobbying firm* shall pay an additional

*lobbyist* registration fee when filing its amended registration form as required by section 27.4012.

- (3) When a *lobbying firm* acquires a *client* subsequent to the *lobbying firm's* initial registration, the *lobbying firm* shall pay an additional *client* registration fee when filing its amended registration form as required by section 27.4012.
  - (4) For the purpose of determining *client* registration fees, a coalition or membership organization shall be considered a single *client*, even if one or more of its members also qualify as *clients* under section 27.4002.
  - (5) Registration fees may be paid or reimbursed by a *client*.
- (b) At the time an *organization lobbyist* registers pursuant to section 27.4007, the *organization lobbyist* shall pay an annual *organization lobbyist* registration fee.
- (1) An *organization lobbyist* that initially qualifies to register during the last quarter of a calendar year (October through December) pursuant to section 27.4007 shall pay a prorated registration fee.
  - (2) An *organization lobbyist* shall pay a single registration fee regardless of the number of its owners, officers, and employees who engage in *lobbying activities*.
- (c) All registration fees shall be set by the *City Council* based upon the recommendation of the *City Clerk*. The *City Clerk* shall from time to time recommend fee amounts to the *City Council* that reflect, but do not exceed, the *City's* costs of administering the filing requirements set forth in this



division. A copy of the fee schedule shall be filed in the rate book of fees on file in the office of the *City Clerk*.

Section 6. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by amending section 27.4012 to read as follows:

**§27.4012      Amendments to Registration Form**

Within ten calendar days of any change in the information required on their registration forms, *lobbying firms* and *organization lobbyists* shall file amendments to their registration forms, disclosing the change in information.

Section 7. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by repealing sections 27.4013 and 27.4014.

Section 8. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by amending sections 27.4015 and 27.4016 to read as follows:

**§27.4015      Quarterly Disclosure Report Required**

- (a) *Lobbying firms* and *organization lobbyists* shall file quarterly disclosure reports for every calendar quarter during which they retain their status as a *lobbying firm* or *organization lobbyist*.
- (b) *Expenditure lobbyists* shall file quarterly disclosure reports for every calendar quarter in which they qualify as *expenditure lobbyists*. An entity has no filing obligations as an *expenditure lobbyist* for any calendar quarter in which it does not meet the definition of an *expenditure lobbyist*.
- (c) Each *lobbying entity* shall file its quarterly disclosure report with the *City Clerk*, using forms provided by the *City Clerk*.

**§27.4016      Filing Deadline for Quarterly Disclosure Report**

*Lobbying entities* shall file quarterly disclosure reports no later than the last day of the months of April, July, October, and January. *Lobbying entities* shall disclose the

information required by section 27.4017 for the calendar quarter immediately prior to the month in which the report is required to be filed.

Section 9. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by retitling and amending section 27.4017 to read as follows:

**§27.4017      Contents of Quarterly Disclosure Report**

(a) Each *lobbying firm's* quarterly disclosure report shall contain the following information:

- (1) the *lobbying firm's* name, address, and telephone number.
- (2) the name, business or mailing address, and telephone number of each *client* represented by the *lobbying firm* during the reporting period (except that if the *client* is a coalition or membership organization, such identifying information need not be disclosed for any of its members who also qualify as *clients* under section 27.4002), along with the following information for that *client*:
  - (A) the specific *municipal decision(s)* for which the *lobbying firm* represented the *client* during the reporting period, and the outcome(s) sought by the *client*;
  - (B) the name and department of each *City Official* who was subject to *lobbying* by the *lobbying firm* with regard to that specific *municipal decision*;
  - (C) the name of each *lobbyist* employed by the *lobbying firm* who engaged in *lobbying activities* with regard to that specific *municipal decision*; and,
  - (D) the total *compensation* that the *lobbying firm* became entitled to receive for engaging in *lobbying activities* during the

reporting period on behalf of that *client*. Such *compensation* shall be disclosed to the nearest thousand dollars.

- (3) an itemization of *activity expenses* that includes the following:
  - (A) the date, amount, and description of any *activity expense* that exceeds \$10 on any single occasion made by the *lobbying firm* or any of its *lobbyists* during the reporting period for the benefit of a single *City Official* or any member of a *City Official's immediate family*;
  - (B) the name, title, and department of the *City Official* who benefited, or whose *immediate family* benefited, from the itemized *activity expense*;
  - (C) the name of each *lobbyist* who participated in making the *activity expense*;
  - (D) the name and address of the payee of each itemized *activity expense*; and,
  - (E) the name of the *client*, if any, on whose behalf each itemized *activity expense* was made.
- (4) an itemization of any campaign contributions of \$100 or more made by owners, officers, or *lobbyists* of the *lobbying firm* to a *candidate* or a *candidate-controlled* committee during the reporting period, including the date and amount of the contribution and the name of the *candidate* supported.
- (5) an itemization of any campaign contributions of \$100 or more made by the *lobbying firm* or any of its owners, officers, or *lobbyists* during the reporting period to a *candidate-controlled* committee that

is organized to support or oppose a ballot measure, including the name of the *candidate*, the date and amount of the contribution, and the name of the ballot measure committee.

- (6) for each instance of *fundraising activity* by an owner, officer, or *lobbyist* of the *lobbying firm* during the reporting period:
  - (A) the name of the owner, officer, or *lobbyist* who engaged in the *fundraising activity*;
  - (B) the name of the elected *City Official* or *candidate* benefiting from the *fundraising activity*;
  - (C) a description of the ballot measure, if any;
  - (D) the date(s) of the *fundraising activity*;
  - (E) a brief description of the *fundraising activity*; and
  - (F) the approximate amount of (i) all contributions personally delivered by the owner, officer, or *lobbyist* to a *candidate* or a *candidate's* controlled committee; and (ii) all contributions for which the owner, officer, or *lobbyist* has identified himself or herself to a *candidate* or a *candidate's* controlled committee as having some degree of responsibility for raising.
- (7) for each owner, officer, and *lobbyist* of the *lobbying firm* who personally provided compensated campaign-related services to a *candidate* or a *candidate-controlled* committee during the reporting period:
  - (A) the name of the owner, officer, or *lobbyist* who provided the services;

- (B) the *candidate's* name, and the office sought by that *candidate*;
  - (C) the name of the *candidate*-controlled ballot measure committee and a description of the ballot measure, if applicable;
  - (D) the approximate amount of *compensation* earned during the reporting period for the services provided to the *candidate* or *candidate*-controlled committee; and,
  - (E) a description of the services provided.
- (8) for each owner, officer, and *lobbyist* of the *lobbying firm* who personally provided compensated services under a contract with the *City* during the reporting period:
- (A) the name of the owner, officer, or *lobbyist* who provided the services;
  - (B) the name of the department, agency, or board for which the services were provided;
  - (C) the approximate amount of *compensation* earned during the reporting period for the services provided under the contract; and,
  - (D) a description of the services provided.
- (9) a statement by a duly authorized owner or officer of the *lobbying firm* that he or she has reviewed the contents of the quarterly disclosure report and verified under penalty of perjury that based on personal knowledge or on information and belief, that he or she believes such contents to be true, correct, and complete.

- (10) the printed name, title, and original signature of the individual making the statement required by subsection (a)(9).
  - (11) any other information required by the *Enforcement Authority* consistent with the purposes and provisions of this division, and as approved by the *City Council*.
- (b) Each *organization lobbyist's* quarterly disclosure report shall contain the following information:
- (1) the *organization lobbyist's* full name, address, and telephone number.
  - (2) for each *municipal decision(s)* for which the *organization lobbyist* engaged in *lobbying activities* during the reporting period:
    - (A) a description of the specific *municipal decision*, and the outcome sought by the *organization lobbyist*;
    - (B) the name and department of each *City Official* who was subject to *lobbying* by the *organization lobbyist* during the reporting period with regard to that specific *municipal decision*; and,
    - (C) the name of each owner, officer, or employee of the *organization lobbyist* who engaged in *lobbying activities* on behalf of the *organization lobbyist* during the reporting period with regard to that specific *municipal decision*; and,
    - (D) the total number of *lobbying contacts* with *City Officials* made on behalf of the *organization lobbyist* by the *organization lobbyist's* owners, officers, or employees with

regard to that specific *municipal decision* during the reporting period.

- (3) an itemization of *activity expenses* that includes the following:
  - (A) the date, amount, and description of any *activity expense* that exceeds \$10 on any single occasion made by the *organization lobbyist* or any of its *lobbyists* during the reporting period for the benefit of a single *City Official* or any member of a *City Official's immediate family*;
  - (B) the name, title, and department of the *City Official* who benefited, or whose *immediate family* benefited, from the itemized *activity expense*;
  - (C) the name of each *lobbyist* who participated in making the *activity expense*; and,
  - (D) the name and address of the payee of each itemized *activity expense*.
- (4) an itemization of any campaign contributions of \$100 or more made by owners, compensated officers, or *lobbyists* of the *organization lobbyist* to a *candidate* or a *candidate-controlled* committee during the reporting period, including the date and amount of the contribution and the name of the *candidate* supported.
- (5) an itemization of any campaign contributions of \$100 or more made by the *organization lobbyist* or any of its owners, compensated officers, or *lobbyists* during the reporting period to a *candidate-controlled* committee that is organized to support or oppose a ballot

measure, including the date and amount of the contribution and the name of the ballot measure committee.

- (6) for each instance of *fundraising activity* by an owner, compensated officer, or *lobbyist* of the *organization lobbyist* during the reporting period:
  - (A) the name of the owner, officer, or *lobbyist* who engaged in the *fundraising activity*;
  - (B) the name of the elected *City Official* or *candidate* benefiting from the *fundraising activity*;
  - (C) a description of the ballot measure, if any;
  - (D) the date(s) of the *fundraising activity*;
  - (E) a brief description of the *fundraising activity*; and
  - (F) the approximate amount of (i) all contributions personally delivered by the owner, officer, or *lobbyist* to a *candidate* or a *candidate's* controlled committee; and (ii) all contributions for which the owner, officer, or *lobbyist* has identified himself or herself to a *candidate* or a *candidate's* controlled committee as having some degree of responsibility for raising.
- (7) for each owner, compensated officer, and *lobbyist* of the *organization lobbyist* who personally provided compensated campaign-related services to a *candidate* or a *candidate-controlled* committee during the reporting period:
  - (A) the name of the owner, officer, or *lobbyist* who provided the services;



- (B) the *candidate's* name, and the office sought by that *candidate*;
  - (C) the name of the *candidate*-controlled ballot measure committee and a description of the ballot measure, if applicable;
  - (D) the approximate amount of *compensation* earned during the reporting period for the services provided to the *candidate* or *candidate*-controlled committee; and,
  - (E) a description of the services provided.
- (8) for each owner, compensated officer, and *lobbyist* of the *organization lobbyist* who personally provided compensated services under a contract with the *City* during the reporting period:
- (A) the name of the owner, officer, or *lobbyist* who provided the services;
  - (B) the name of the department, agency, or board for which the services were provided;
  - (C) the approximate amount of *compensation* earned during the reporting period for the services provided under the contract; and,
  - (D) a description of the services provided.
- (9) a statement by a duly authorized owner or officer of the *organization lobbyist* that he or she has reviewed the contents of the quarterly disclosure report and verified under penalty of perjury that based on personal knowledge or on information and belief, that he or she believes such contents to be true, correct, and complete.

- (10) the printed name, title, and original signature of the individual making the statement required by subsection (b)(9).
  - (11) any other information required by the *Enforcement Authority* consistent with the purposes and provisions of this division, and as approved by the *City Council*.
- (c) An *expenditure lobbyist's* quarterly disclosure report shall contain the following information:
- (1) The name, address, and telephone number of the *expenditure lobbyist*.
  - (2) The name, title, address, and telephone number of the individual responsible for preparing the report.
  - (3) A description of each *municipal decision* that the *expenditure lobbyist* attempted to influence during the reporting period, and for each such *municipal decision*:
    - (A) The total expenditures the *expenditure lobbyist* made during the reporting period for the purpose of attempting to influence that *municipal decision*. An expenditure is made on the date a *payment* is made or on the date consideration, if any, is received by the *expenditure lobbyist*, whichever is earlier. An *expenditure lobbyist* need not disclose expenditures for *lobbying activities* reported by a *lobbying firm* or *organization lobbyist* on a quarterly disclosure report.
    - (B) The name, address, telephone number, and amount of *payment* for each *person* who made a *payment*, or the promise of a *payment*, of \$100 or more to the *expenditure*

*lobbyist* for the express purpose of funding any expenditure identified in subsection (c)(3)(A).

(C) The outcome sought by the *expenditure lobbyist*.

- (4) a statement by a duly authorized owner or officer of the *expenditure lobbyist* that he or she has reviewed the contents of the quarterly disclosure report and verified under penalty of perjury that based on personal knowledge or on information and belief, that he or she believes such contents to be true, correct, and complete.
- (5) the printed name, title, and original signature of the individual making the statement required by subsection (c)(4).
- (6) any other information required by the *Enforcement Authority* consistent with the purposes and provisions of this division, and as approved by the *City Council*.

Section 10. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by adding new section 27.4018 to read as follows:

**§27.4018 Amendments to Quarterly Disclosure Reports**

Any *lobbying entity* that discovers incomplete or inaccurate information in a quarterly disclosure report that it filed with the *City Clerk* shall, within ten calendar days of the discovery, file an amended quarterly disclosure report with the *City Clerk* disclosing all information necessary to make the report complete and accurate.

Section 11. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by retitling, amending, and renumbering previous section 27.4018 to section 27.4019, to read as follows:

**§27.4019 Retention of Records**

In addition to any other requirement of this division, every *lobbying entity* shall retain for a period of five years all books, papers, and documents necessary to substantiate the quarterly disclosure reports required to be made under this division.

Section 12. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by repealing sections 27.4020 and 27.4021.

Section 13. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by retitling and amending sections 27.4022, 27.4023, and 27.4024 to read as follows:

**§27.4022 Termination of Status as Lobbying Firm or Organization Lobbyist**

A *lobbying firm* or *organization lobbyist* that ceases being a *lobbying entity* shall notify the *City Clerk* of this status upon the quarterly disclosure report form provided by the *City Clerk*. Upon terminating, the *lobbying firm* or *organization lobbyist* shall report any information required by section 27.4017 that has not been reported since its last quarterly disclosure report.

**§27.4023 Obligations of Individual Lobbyists**

Every *lobbyist* shall:

- (a) disclose his or her status as a *lobbyist* to a *City Official* before making any *activity expense* to, or for the benefit of, that *City Official* or that *City Official's immediate family*;
- (b) abstain from doing any act with the purpose or intent of placing a *City Official* under personal obligation to the *lobbyist*, or to the *lobbyist's* employer or *client*;
- (c) correct, in writing, any misinformation given to a *City Official*, specifying the nature of the misinformation;

- (d) not deceive or attempt to deceive a *City Official* as to any material fact pertinent to any pending or proposed *municipal decision*;
- (e) not cause any communication to be sent to a *City Official* in the name of any fictitious *person*, or in the name of any real *person* without the consent of such real *person*; and,
- (f) not attempt to evade the obligations in this section through indirect efforts or through the use of *agents*, associates, or employees.

**§27.4024      Employment of City Official by Lobbying Entity**

If any *lobbying entity* employs or retains a current *City Official*, or any member of that official's *immediate family*, that *lobbying entity* shall file a written statement with the *City Clerk* within ten calendar days after such employment commences.

This statement shall set forth the name of the individual employed, the date the individual was first employed by the *lobbying entity*, and the individual's position, title, and department in the *City*.

Section 14. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by adding section 27.4030 to read as follows:

**§27.4030      Gifts from Lobbying Entities and Lobbyists**

- (a) It is unlawful for a *lobbying firm* or any of its *lobbyists* to make a *gift*, act as an *agent* or intermediary in the making of a *gift*, or arrange for the making of a *gift* if:
  - (1) the *gift* is given to a *City Official*, and
  - (2) the aggregate value of all *gifts* from the *lobbying firm* and its *lobbyists* to that *City Official* exceeds \$10 within a calendar month.

- (b) It is unlawful for a *organization lobbyist* or any of its *lobbyists* to make a *gift*, act as an *agent* or intermediary in the making of a *gift*, or arrange for the making of a *gift* if:
  - (1) the *gift* is given to a *City Official*, and
  - (2) the aggregate value of all *gifts* from the *organization lobbyist* and its *lobbyists* to that *City Official* exceeds \$10 within a calendar month.
- (c) For purposes of this section, an entity or individual “arranges for the making of a *gift*” if the entity or individual, either directly or through an *agent*, does any of the following:
  - (1) delivers a *gift* to the recipient;
  - (2) acts as the representative of the donor, if the donor is not present at the occasion of a *gift*, except when accompanying the recipient to an event where the donor will be present;
  - (3) invites or sends an invitation to an intended recipient regarding the occasion of a *gift*;
  - (4) solicits responses from an intended recipient concerning his or her attendance or nonattendance at the occasion of a *gift*;
  - (5) is designated as the representative of the donor to receive responses from an intended recipient concerning his or her attendance or nonattendance at the occasion of a *gift*; or,
  - (6) acts as an intermediary in connection with the reimbursement of a recipient's expenses.

Section 15. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by amending and renumbering section 27.4025 to section 27.4040, to read as follows:

**§27.4040 Powers and Duties of the City Clerk**

- (a) Upon receipt of a written request, the *City Clerk* may issue a notice of filing obligations to any *person* whom a *City Official* or any other *person* has reason to believe should file a registration form or quarterly disclosure report under this division. Before sending the notice, the Clerk:
  - (1) shall require the *City Official* or *person* making the request to provide a written statement of the factual basis for the belief; and,
  - (2) shall determine whether sufficient facts exist to warrant sending the notice.
- (b) Any *person* who in good faith and on reasonable grounds believes that he, she, or it is not required to comply with the provisions of sections 27.4007 or 27.4015 by reason of being exempt under any provision of this division shall not be deemed to have violated the provisions of these sections if, within ten calendar days after the *City Clerk* has sent specific written notice, the *person* either complies with the requirements of this division, or furnishes satisfactory evidence to the Clerk that he, she, or it is exempt from filing obligations.
- (c) As soon as practicable after the close of each quarter, the *City Clerk* shall complete a summary of the information contained in registration forms and quarterly disclosure reports required to be filed under the provisions of this division. This summary shall be forwarded to the Mayor, City Council, and the *Enforcement Authority*.
- (d) The *City Clerk* shall preserve all registration forms and quarterly disclosure reports required to be filed under this division for a period of five years from the date of filing. These registration forms and quarterly disclosure reports

shall constitute part of the public records of the Clerk's office, and shall be open to public inspection. Copies shall be made available by the Clerk upon request and payment of any lawful copy charges.

- (e) The *City* Clerk shall report apparent violations of this division to the *Enforcement Authority*.
- (f) The *City* Clerk shall have the power to adopt all reasonable and necessary procedures to implement this division.

Section 16. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by amending and renumbering section 27.4026 to section 27.4041, to read as follows:

**§27.4041      Inspection of Forms and Reports**

- (a) The *City* Clerk shall inspect, or cause to be inspected, each registration form and quarterly disclosure report filed under this division within thirty calendar days after the filing deadline. The Clerk shall notify an entity to file a registration form or quarterly disclosure report under this division if it appears that the entity has failed to file as required by law or that the registration form or quarterly disclosure report filed by the entity does not conform to law.
- (b) Any entity notified to file an original or amended registration form or quarterly disclosure report shall file the form or report by the deadline imposed in the notification from the Clerk.

Section 17. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by adding section 27.4045 to read as follows:



**§27.4045 Online Disclosure of Forms and Reports**

- (a) It is the intent of the *City* to implement an electronic filing system that facilitates the disclosure of *lobbying activities* engaged in by *lobbying entities*. When a practical and financially feasible electronic filing system has been implemented by the *City Clerk*, the provisions of this section shall be in effect.
- (b) Every *lobbying entity* required to file a registration form or quarterly disclosure report pursuant to this division shall use the *City Clerk's* electronic filing system to file online such forms or reports.
- (c) Every *lobbying entity* shall continue to file a paper copy of each form or report with the *City Clerk*. The paper copy shall continue to be the original form or report for audit and other legal purposes.
- (d) The information contained on a form or report filed online shall be the same as that contained on the paper copy of the same form or report that is filed with the *City Clerk*.

Section 18. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by amending and renumbering section 27.4027 to section 27.4050, to read as follows:

**§27.4050 Enforcement Authority: Duties, Complaints, Legal Action, Investigatory Powers**

- (a) Any *person* who believes that violation of any portion of this division has occurred may file a complaint with the *Enforcement Authority*.
- (b) The *Enforcement Authority* shall have such investigative powers as are necessary for the performance of the duties prescribed in this division. The *Enforcement Authority* may demand and shall be furnished any records that

may prove or disprove the accuracy of information contained in a registration form or quarterly disclosure report. In the event that there is a claim that any such records are entitled to protection from disclosure under the attorney-client privilege, the *Enforcement Authority* shall be provided with sufficient documentation to verify the information to which the *City* is entitled under California Business and Professions Code section 6009.

- (c) The *Enforcement Authority* shall determine whether forms and reports have been filed as required and, if so, whether they conform to the requirements of this division.
- (d) The *Enforcement Authority* may elect to enforce the provision of this division administratively pursuant to Chapter 2, Article 6, Division 4, or may otherwise recommend or refer enforcement actions to the City Attorney or other law enforcement agency with jurisdiction.

Section 19. That Chapter 2, Article 7, Division 40 of the San Diego Municipal Code is hereby amended by amending and renumbering section 27.4028 to section 27.4055, to read as follows:

**§27.4055      Violations, Penalties and Defenses**

- (a) Violations of this division may be prosecuted as misdemeanors subject to the fines and custody provided in San Diego Municipal Code section 12.0201. The *City* may also seek injunctive relief and civil penalties in the Superior Court pursuant to Municipal Code section 12.0202. In addition, if the matter is pursued by the *Enforcement Authority* as an administrative matter, any *person* found in violation is subject to the administrative penalties provided for in Chapter 2, Article 6, Division 4.

- (b) In addition to any other penalty or remedy available, if any lobbying entity fails to file any registration form or quarterly disclosure report required by this division after any deadline imposed by this division, that lobbying entity shall be liable to the *City* of San Diego in the amount of \$10 per calendar day after the deadline until the report is filed, up to a maximum amount of \$100.
- (c) Provisions of this division need not be enforced by the *City* Clerk if it is determined that the late filing was not willful and that enforcement of the penalty would not further the purposes of this division.
- (d) Provisions of this division shall not be waived if a registration form or quarterly disclosure report, or an amendment to correct any deficiency in a registration form or quarterly disclosure report, is not filed by the deadline imposed in the notification from the *City* Clerk of the filing requirement.
- (e) Any limitation of time prescribed by law within which prosecution for a violation of any part of this division must be commenced shall not begin to run until the *City's* discovery of the violation.

Section 20. That Chapter 2, Article 7, Division 35 of the San Diego Municipal Code is hereby amended by amending section 27.3503, as follows:

**§27.3503     Definitions**

Each word or phrase that is defined in this Division appears in the text of this Division in italicized letters. Except as otherwise provided herein, the terms and provisions of this Division shall have the meanings and shall be interpreted in accordance with the applicable definitions and provisions of the Political Reform Act of 1974, as amended (California Government Code sections 81000 through

91014) and the regulations of the California Fair Political Practices Commission, as amended. For purposes of this Division, the following definitions shall apply:

*Benefit through Influencing a municipal decision* [No change in text]

*Loan through Lobbying* [No change in text]

*Lobbying firm* means any entity defined as a “lobbying firm” in San Diego Municipal Code section 27.4002.

*Lobbyist* means any individual defined as a “lobbyist” in San Diego Municipal Code section 27.4002.

*Local Code Filer through Municipal Decision* [No change in text]

*Organization lobbyist* means any entity defined as an “organization lobbyist” in San Diego Municipal Code section 27.4002.

*Party through Public Hearing* [No change in text]

*Restricted source* includes:

- (a) a lobbyist, lobbying firm, or organization lobbyist, seeking to influence a municipal decision;
- (b) a person doing business with the City; and
- (c) a person who, during the reporting period, directly communicated with a City Official pertaining to a municipal decision which would have a material financial effect on such person; or

- d) a *person* who is a party to a *municipal decision* which within the prior nine months was pending before the *City Official*, and for nine months following the date a *final decision* is rendered in the *proceeding*.

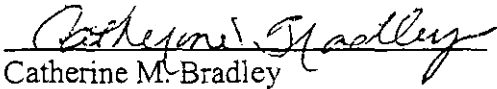
A *restricted source* does not include an individual (other than a *lobbyist*) who is employed by a *restricted source*.

*Travel expenses* [No change in text]

Section 21. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 22. That this ordinance shall take effect and be in force on January 1, 2008.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Catherine M. Bradley  
Chief Deputy City Attorney

CMB:als  
6/27/07  
7/20/07 REV.  
Or.Dept:Ethics  
O-2007-137

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego,  
at its meeting of \_\_\_\_\_.

ELIZABETH S. MALAND  
City Clerk

By \_\_\_\_\_  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

## STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Underline

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 7, DIVISION 40 OF THE SAN DIEGO MUNICIPAL CODE BY RETITLING AND AMENDING SECTION 27.4001; AMENDING SECTIONS 27.4002 AND 27.4004; REPEALING SECTION 27.4005; AMENDING SECTIONS 27.4006 AND 27.4007; RETITLING AND AMENDING SECTIONS 27.4009 AND 27.4010; AMENDING SECTION 27.4012; REPEALING SECTIONS 27.4013 AND 27.4014; AMENDING SECTIONS 27.4015 AND 27.4016; RETITLING AND AMENDING SECTION 27.4017; ADDING NEW SECTION 27.4018; RETITLING, AMENDING, AND RENUMBERING PREVIOUS SECTION 27.4018 TO SECTION 27.4019; REPEALING SECTIONS 27.4020 AND 27.4021; RETITLING AND AMENDING SECTIONS 27.4022, 27.4023, AND 27.4024; ADDING SECTION 27.4030; AMENDING AND RENUMBERING SECTION 27.4025 TO SECTION 27.4040; AMENDING AND RENUMBERING SECTION 27.4026 TO SECTION 27.4041; ADDING SECTION 27.4045; AMENDING AND RENUMBERING SECTION 27.4027 TO SECTION 27.4050; AMENDING AND RENUMBERING SECTION 27.4028 TO SECTION 27.4055; AND AMENDING CHAPTER 2, ARTICLE 7, DIVISION 35 BY AMENDING SECTION 27.3503, ALL RELATING TO THE CITY OF SAN DIEGO MUNICIPAL LOBBYING ORDINANCE

### §27.4001 Purpose and Intent

~~The purpose of this division is to provide registration and disclosure requirements whereby individuals acting as *Municipal Lobbyists* are required to register with the City. The purpose of registration is to require *Lobbyists* to provide sufficient information so that complete disclosure of principals and *Clients* they represent may become public information for the benefit of the *City Council* and the general~~

public. This division is not intended to discourage or prohibit the exercise of constitutional rights.

It is the purpose and intent of the City Council of the City of San Diego in enacting this division to: ensure that the citizens of the City of San Diego have access to information about persons who attempt to influence decisions of City government through the use of paid lobbyists; establish clear and unambiguous registration and disclosure requirements for lobbyists in order to provide the public with relevant information regarding the financing of lobbyists and the full range of lobbying activities; prohibit registered lobbyists from exerting improper influence over City Officials or from placing City Officials under personal obligation to lobbyists or their clients; promote transparency concerning attempts to influence municipal decisions; avoid corruption and the appearance of corruption in the City's decision-making processes; regulate lobbying activities in a manner that does not discourage or prohibit the exercise of constitutional rights; reinforce public trust in the integrity of local government; and ensure that this division is vigorously enforced.

#### §27.4002 Definitions

All defined terms in this Division division appear in italics. ~~The first letter of each term defined in this Division is capitalized.~~ Unless the context otherwise indicates, the defined terms have the meanings set forth below.

~~"Activity Expense"~~ Activity Expense means any ~~Payment~~ payment made to, or benefiting or on behalf of, any City Official or any member of a City Official's immediate family, made by a Lobbyist lobbyist, lobbying firm, or organization lobbyist. ~~An Activity Expense benefits a City Official if it is made to, or on behalf of, the City Official. An Activity Expense includes gifts provided to the City~~



~~Official's spouse or dependent child if the City Official receives benefits from the gift or exercises control or discretion over the use or disposal of the gift. "Activity Expenses"~~ Activity expenses include gifts, meals, honoraria, consulting fees, salaries, and any other form of ~~Compensation~~ compensation to a City Official or a City Official's immediate family, but do not include campaign contributions.

~~"Agent"~~ Agent means a ~~Person~~ person who acts on behalf of any other ~~Person~~ person. ~~"Agent"~~ Agent includes a ~~Person~~ person who acts on behalf of a ~~Lobbyist~~ lobbyist.

Candidate means any individual who is holding elective City office or otherwise meets the definition of "candidate" under section 27.2903.

~~"City"~~ City means the City of San Diego or any of its organizational subdivision, office, or board subdivisions, agencies, offices, or boards of the City.

~~"City Board"~~ City Board includes the boards of directors of all City agencies, and any board, commission, committee, or task force of the City established by action of the City Council under authority of the City Charter, Municipal Code, or Council resolution, whose members are required to file a statement of economic interests pursuant to the California Political Reform Act of 1974, as amended.

~~"City Official"~~ includes:

- (a) ~~any elected or appointed City officeholder, including any City officeholder elected but not yet sworn in, City Board member, or employee of the City or any City agency, who, as part of his or her official duties, participates in~~

~~the consideration of any *Municipal Decision* other than in a purely clerical, secretarial or ministerial capacity;~~

- ~~(b) *City Council* members acting in their capacity as Housing Authority and Redevelopment Agency officers; and~~
- ~~(e) any consultants of this *City* who are required to file a statement of economic interest pursuant to any conflict of interest code adopted by the *City Council*.~~

*City Official* means any of the following officers or employees of the *City*, which includes all *City* agencies: elected officeholder; Council staff member; Council Committee Consultant; Council Representative; Assistant City Attorney; Deputy City Attorney; General Counsel; Chief; Assistant Chief; Deputy Chief; Assistant Deputy Chief; City Manager; Assistant City Manager; Deputy City Manager; Management Assistant to City Manager; Treasurer; Auditor and Comptroller; Independent Budget Analyst; Budget/Legislative Analyst; Financial Operations Manager; City Clerk; Labor Relations Manager; Retirement Administrator; Director; Assistant Director; Deputy Director; Assistant Deputy Director; Chief Executive Officer; Chief Operating Officer; Chief Financial Officer; President; and Vice-President. *City Official* also means any member of a *City Board*.

*"Client"* *Client* means

- ~~(a) a person who compensates a lobbyist, including an *In-House Lobbyist*, for the purpose of influencing a municipal decision; or~~
- ~~(b) a person on whose behalf a lobbyist makes attempts at influencing a municipal decision.~~

any person who provides compensation to a lobbying firm for the purpose of influencing a municipal decision, and any person on whose behalf lobbying activities are performed by a lobbying firm.

(a) Client includes any person that retains a lobbying firm to engage in lobbying activities pursuant to a contingency agreement.

(b) If a coalition or membership organization is a client, a member of that coalition or organization is not also a client unless that member paid, or agreed to pay, at least \$1,000 to the lobbying firm for lobbying activities performed on behalf of the coalition or organization with regard to a specific municipal decision. For purposes of this subsection, if a member is an individual, payments by that individual's immediate family are attributable to that individual member.

~~"Committee" has the same meaning as that set forth in California Government Code Section 82013.~~

~~"Compensated services" means lobbying activities for which compensation was paid during a reporting period or for which the lobbyist became entitled to compensation during that period.~~

~~"Compensation"~~ Compensation means any economic consideration for services rendered or to be rendered. Compensation does not include, other than reimbursement for travel expenses.

Contact means the act of engaging in a direct communication with a City Official for the purpose of influencing a municipal decision. For purposes of this definition:

- (a) each discussion with a *City Official* regarding a different *municipal decision* is considered a separate *contact*;
- (b) each discussion regarding a *municipal decision* with a *City Official* and members of that official's immediate staff, or with multiple immediate staff members of the same *City Official*, is considered a separate *contact*;
- (c) multiple identical or substantially similar written communications made by letter, facsimile or electronic mail to one or more *City Officials* pertaining to a single *municipal decision* may be considered a single *contact* for that *municipal decision*.

~~Contract includes but is not limited to written contracts, agreements, memoranda of understanding, and similar writings that set forth transactions involving personal property, real property, intellectual property, personal services, consultant services, public works, or insurance. For purposes of this division, "contract" and "agreement" are synonymous. The definition of "contract" is intended to be broadly construed.~~

~~Day means calendar day unless otherwise specified.~~

~~"Direct Communication"~~ Direct communication means:

- (a) talking to (either by telephone or in person); or
- (b) corresponding with (either in writing or by electronic transmission or facsimile machine).

~~"Direct Communication" does not include:~~

- (a) ~~solely responding to questions from any *City Official*; or~~

- (b) ~~appearing as a speaker at, or providing written statements which become part of the record of, a *Public Hearing*, so long as the *Lobbyist* identifies the *Clients(s)* represented; or~~
- (c) ~~a direct response to an enforcement proceeding with the *City*.~~

~~"*Enforcement Authority*" has the same meaning as that term is defined in Section 27.2903- *Enforcement Authority* means the City of San Diego Ethics Commission.~~  
~~Nothing in this article limits the authority of the City Attorney, any law enforcement agency, or any prosecuting attorney to enforce the provisions of this article under any circumstances where the City Attorney, law enforcement agency, or prosecuting attorney otherwise has lawful authority to do so.~~

~~*Expenditure lobbyist* means any person who makes expenditures for public relations, media relations, advertising, public outreach, research, investigation, reports, analyses, studies, or similar activities designed to influence one or more municipal decisions, to the extent that such payments total \$5,000 or more within a calendar quarter. An expenditure is made on the date a payment is made or on the date consideration, if any, is received by the expenditure lobbyist, whichever is earlier. Expenditures for lobbying activities reported by a lobbying firm or organization lobbyist on a quarterly disclosure report shall not be considered for purposes of calculating the \$5,000 threshold.~~

~~*Fundraising activity* means soliciting, or directing others to solicit, campaign contributions from one or more contributors, either personally or by hosting or sponsoring a fundraising event, and either (a) personally delivering \$1,000 or more in contributions to a candidate or to a candidate's controlled committee, or (b)~~

identifying oneself to a *candidate* or a *candidate's* controlled committee as having any degree of responsibility for \$1,000 or more in contributions received as a result of that solicitation.

~~"Gift" has the same meaning as that set forth in California Government Code section 82028~~ Gift means any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value. Gifts are subject to the exceptions set forth in Municipal Code section 27.3525. Gifts do not include a ticket, invitation, or other admission privilege to an event held for a non-profit entity.

~~*In-House Lobbyist* means an individual who engages in Lobbying solely on behalf of his or her business or employer. In-House Lobbyist includes, but is not limited to, owners, officers, and salaried employees of a business.~~

*Immediate family* means an individual's spouse or registered domestic partner, and any dependent children.

~~"Influencing a municipal decision"~~ Influencing a municipal decision means affecting or attempting to affect any action by a City Official on one or more Municipal Decisions municipal decisions by any method, including promoting, supporting, opposing, or seeking to modify or delay such action. ~~"Influencing a~~

~~municipal decision.~~ Influencing a municipal decision also includes providing information, statistics, analysis, or studies to a *City Official*.

~~"Lobbying"~~ Lobbying means ~~Direct Communication~~ direct communication with a *City Official* for the purpose of ~~Influencing a Municipal Decision~~ influencing a municipal decision on behalf of any other person.

Lobbying activities means the following and similar activities that are related to an attempt to influence a municipal decision: (a) lobbying; (b) monitoring municipal decisions; (c) preparing testimony and presentations; (d) engaging in research, investigation, and fact-gathering; (e) attending hearings; (f) communicating with clients; and (g) waiting to meet with City Officials.

Lobbying entity means any lobbying firm, organization lobbyist, or expenditure lobbyist.

Lobbying firm means any entity that receives or becomes entitled to receive any amount of monetary or in-kind compensation to engage in lobbying activities on behalf of any other person, and that has at least one direct communication with a City Official for the purpose of influencing a municipal decision. A lobbying firm includes any entity that engages in lobbying activities on behalf of another person pursuant to a contingency fee agreement.

~~"Lobbyist"~~ means an individual who receives or becomes entitled to receive the threshold ~~Compensation~~ amount during any calendar quarter for ~~Lobbying~~, and who has had at least one ~~Direct Communication~~ with a *City Official* in that calendar quarter. Lobbyist includes:

- ~~(a) In-House Lobbyists who engage in Lobbying;~~
- ~~(b) individuals under contract to engage in Lobbying; and~~
- ~~(c) individuals employed by a firm under contract to provide Lobbying services,~~  
~~whose pro-rated salary for Lobbying activities meets the threshold~~  
~~Compensation during any calendar quarter.~~

Lobbyist means any individual who engages in lobbying activities on behalf of a client or an organization lobbyist.

Ministerial action means any action that does not require a City Official to exercise discretion concerning any outcome or course of action. A ministerial action includes, but is not limited to, decisions on private land development made pursuant to Process 1 as described in Chapter 11 of the Municipal Code.

~~"Municipal Decision"~~ Municipal decision includes:

- (a) the drafting, introduction, consideration, reconsideration, adoption, defeat, ~~or repeal, or veto~~ of any ordinance or resolution; and
- (b) the amendment of any ordinance or resolution; and
- (c) a report by a City Official to the City Council, ~~or a City Council Committee,~~  
or to the Mayor; and
- (d) contracts; and
- (e) quasi-judicial decisions, including:
  - (1) any decision on a land development permit, map or other matter decided pursuant to Process 2 through 5 as described in Chapter 11 of this Municipal Code; and
  - (2) any grant of, denial of, modification to, or revocation of a permit or license under Chapter 1 through 10 of this Municipal Code; and



- (3) any declaration of debarment as described in Chapter 2, Article 2, Division 8, of this Municipal Code; and

- (f) any other decision of the *City Council* or a *City Board*.

~~"Municipal Decision" does not include any of the following:~~

- ~~(a) any request for advice regarding, or for an interpretation of laws, regulations, *City* approvals or policies; or~~
- ~~(b) any communication among attorneys representing a party or potential party to pending or actual litigation brought by or against the *City*, or *City* agent, officer or employee; or~~
- ~~(c) any ministerial action such as decisions on private land development made pursuant to Process 1 as described in Chapter 11 of this Municipal Code; or~~
- ~~(d) any action relating to the establishment, amendment, administration, implementation or interpretation of a collective bargaining agreement or memorandum of understanding between the *City* and a recognized employee organization, or a proceeding before the Civil Service Commission; or~~
- ~~(e) any management decisions as to the working conditions of represented employees that clearly relate to the terms of collective bargaining agreements or memoranda of understanding pursuant to (d) above.~~

Organization lobbyist means any business or organization, including any non-profit entity, that provides compensation to one or more employees who have a total of 10 or more separate contacts with one or more *City Officials* within 60 consecutive calendar days for purposes of lobbying on behalf of the business or organization.

An employee of any parent or subsidiary of the business or organization is considered an employee of that entity. "Employees" of an organization lobbyist include the owners, officers, and employees of the business or organization.

~~"Payment"~~ has the same meaning as that set forth in California Government Code section 82044. Payment means a payment, distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services, or anything else of value, whether tangible or intangible.

~~"Person"~~ Person means any individual, business entity, trust, corporation, association, committee, or any other organization or group of persons acting in concert.

~~"Public Hearing"~~ Public hearing means any meeting as defined by the Ralph M. Brown Act where a public record is kept of who spoke and who was represented by a lobbyist testifying at that hearing.

~~"Public Official"~~ Public official means an elected or appointed officer or employee or officially designated representative, whether compensated or not, of the United States or any of its agencies; the State of California; the City; any political subdivision of the State, including counties and districts; or any public corporation, agency, or commission.

~~"Travel Expenses"~~ Travel expenses means reasonable expenses for transportation plus a reasonable sum for food and lodging.

## §27.4004 Exceptions

The following *persons* and activities are exempt from the requirements of this division:

- (a) a ~~Public Official~~ public official acting in his or her official capacity and any government employee acting within the scope of his or her employment;
- (b) any newspaper or other regularly published periodical, radio station, or television station (including any individual who owns, publishes, or is employed by any such newspaper, periodical, radio station, or television station) that in the ordinary course of business publishes news items, editorials, or other comments or paid advertisements ~~which that~~ directly or indirectly urge action on a ~~Municipal Decision~~ municipal decision, if such newspaper, periodical, radio station, or television station, or individual engages in no other activities to ~~Influence a Municipal Decision~~ influence a municipal decision; ~~and~~
- (c) any ~~Person~~ person whose sole activity includes one or more of the following:
  - (1) to submit a bid on a competitively bid contract;
  - (2) to submit a written response to a request for proposals or qualifications;
  - (3) to participate in an oral interview for a request for proposals or qualifications; or,
  - (4) to negotiate the terms of a contract or agreement with the ~~City~~ City, once the ~~City~~ City has authorized either by action of the ~~City~~ City Council, ~~City~~ City Manager, or voters, entering an agreement with

that Person person whether that Person person has been selected pursuant to a bid, request for proposals or qualifications, or by other means of selection recognized by law.

- (5) to communicate in connection with the administration of an existing contract between the person and the City.
- (d) any request for advice regarding, or for an interpretation of, laws, regulations, City approvals, or policies;
- (e) any communication by an attorney with regard to his or her representation of a party or potential party to pending or actual litigation, or to a pending or actual administrative enforcement proceeding, brought by or against the City, or City agent, officer, or employee;
- (f) any communication concerning a ministerial action;
- (g) any communication concerning the establishment, amendment, administration, implementation, or interpretation of a collective bargaining agreement or memorandum of understanding between the City and a recognized employee organization, or concerning a proceeding before the Civil Service Commission;
- (h) any communication concerning management decisions regarding the working conditions of represented employees that clearly relate to the terms of collective bargaining agreements or memoranda of understanding pursuant to (g) above;
- (i) solely responding to questions from any City Official, or providing oral or written information in response to a subpoena or as otherwise compelled by law;

- (i) solely appearing as a speaker at, or providing written statements that become part of the record of, a public hearing;
- (k) any direct response to an enforcement proceeding with the City;
- (l) the provision of purely technical data or analysis to a City Official by an expert, so long as the expert does not otherwise engage in direct communication for the purpose of influencing a municipal decision. This subsection is intended to be interpreted in a manner consistent with title 2, section 18239(d)(3)(A) of the California Code of Regulations.
- (m) the publishing of any information on an Internet website that is accessible to the general public.

**§27.4005 Threshold Determination**

- (a) For the purpose of determining whether a ~~Lobbyist~~ has met the threshold for Compensation registration required by Section 27.4007, time spent on the following activities shall be included:
  - (1) ~~monitoring a Municipal Decision the Lobbyist is seeking to influence;~~
  - (2) ~~preparing testimony and presentations;~~
  - (3) ~~attending hearings on a Municipal Decision the Lobbyist is seeking to influence;~~
  - (4) ~~communicating with the Lobbyist's Client or the Lobbyist's employer on a Municipal Decision the Lobbyist is seeking to influence; and~~
  - (5) ~~waiting to meet with City Officials. These and similar activities are an integral part of Influencing a Municipal Decision.~~

- (b) ~~The threshold Compensation shall be calculated as follows:~~
  - (1) ~~In 1999 it is \$2,000.~~
  - (2) ~~It will be adjusted each year thereafter, based on the San Diego Consumer Price Index percentage change.~~
- (e) ~~The City Clerk shall publish the threshold Compensation amount on or before January 10 of each year.~~

**§27.4006 Activity Expense on Behalf of Client**

An ~~Activity Expense~~ activity expense shall be considered to be made on behalf of a ~~Client~~ client if the ~~Client~~ client ~~requires~~ requests, authorizes, or reimburses the expense.

**§27.4007 Registration Required**

- (a) ~~A Lobbyist~~ Every lobbying firm and organization lobbyist is required to register with the City Clerk no later than ten ~~(10) calendar Days~~ days after qualifying as a ~~Lobbyist~~ lobbying firm or organization lobbyist.
- (b) ~~Within ten (10) Days after qualifying as a Lobbyist, a Lobbyist shall report the information required by Section 27.4017 for any Compensated Services the Lobbyist provided in the three (3) months prior to the date of qualification as a Lobbyist.~~
- (c) ~~Lobbyists shall file with the City Clerk the registration form with the Lobbyists' original signature. Lobbying firms and organization lobbyists shall file their registration forms with the City Clerk, using forms provided by the City Clerk.~~
- (d)(c) Nothing in this division precludes an individual entity from registering as a ~~lobbyist~~ lobbying firm or organization lobbyist prior to qualifying as such.

- (d) An entity that registers as a *lobbying firm or organization lobbyist* retains that status through January 5 of the following calendar year unless and until it terminates that status in accordance with section 27.4022. An entity that continues to qualify as a *lobbying firm or organization lobbyist* on January 5 shall renew that registration on or before January 15 of each year.

§27.4009      **Contents of Lobbyist's Registration Form**

~~Lobbyists shall file with the City Clerk the registration form which contains the following:~~

- (a) ~~the Lobbyist's full name, business address, and business telephone number;~~
- (b) ~~the name, business address, and business telephone number of the Lobbyist's employer, if any;~~
- (c) ~~a specific description of the Lobbyist's employer, if any, in sufficient detail to inform the reader of the nature and purpose of the employer's business;~~
- (d) ~~for each Client for which the Lobbyist provides Lobbying Activities:~~
  - (1) ~~the Client's name, business or mailing address, and business or message telephone number;~~
  - (2) ~~a specific description of each Client in sufficient detail to inform the reader of the nature and purpose of the Client's business;~~
  - (3) ~~the specific Municipal Decision(s) for which the Lobbyist was retained to represent the Client, or a description of the type(s) of Municipal Decision(s) for which the Lobbyist was retained to represent the Client;~~
- (e) ~~a statement that the Lobbyist has reviewed and understands the requirements of Division 40 governing municipal lobbying; and~~

- (f) ~~any other information required by the City Clerk consistent with the purposes and provisions of this division.~~
- (a) Every lobbying firm shall file with the City Clerk a registration form that contains the following information:
- (1) the lobbying firm's name, address, and telephone number.
  - (2) the name of each individual employed by the lobbying firm:
    - (A) who has engaged in lobbying the City within the previous 30 calendar days, or
    - (B) who the lobbying firm reasonably anticipates will engage in lobbying the City in the future.
  - (3) a listing of all owners, officers, and lobbyists of the lobbying firm who engaged in fundraising activities for a current elected City Official during the two year period preceding the filing date, along with the name of each applicable City Official. Notwithstanding the requirements of this subsection, lobbying firms have no obligation to report fundraising activities that took place prior to January 1, 2007.
  - (4) a listing of all owners, officers, and lobbyists of the lobbying firm who personally provided compensated campaign-related services to a current elected City Official during the two year period preceding the filing date, along with the name of each applicable City Official. Notwithstanding the requirements of this subsection, lobbying firms have no obligation to report campaign-related services that were rendered prior to January 1, 2007.



- (5) a listing of all owners, officers, and lobbyists of the lobbying firm who personally provided compensated services under a contract with the City during the two year period preceding the filing date, along with the name of the City department, agency, or board for which the services were provided. Notwithstanding the requirements of this subsection, lobbying firms have no obligation to report compensated services provided prior to January 1, 2007.
- (6) for each client for whom the lobbying firm engages in lobbying activities:
- (A) the client's name, business or mailing address, and telephone number; in addition, if the client is a coalition or membership organization, include the name, business or mailing address, and telephone number of each member who also qualifies as a client under section 27.4002.
- (B) a specific description of each client in sufficient detail to inform the public of the nature and purpose of the client's business; and,
- (C) the specific municipal decision(s) for which the lobbying firm was retained to represent the client, or a description of the type(s) of municipal decision(s) for which the lobbying firm was retained to represent the client, and the outcome(s) sought by the client;
- (7) statements by a duly authorized owner or officer of the lobbying firm that he or she:

- (A) reviewed and understands the requirements of Division 40 governing municipal lobbying; and
  - (B) reviewed the contents of the registration form and verified under penalty of perjury that based on personal knowledge or on information and belief, that he or she believes such contents to be true, correct, and complete.
- (8) the printed name, title, and original signature of the individual making the statements required by subsection (a)(7).
- (9) any other information required by the *Enforcement Authority* consistent with the purposes and provisions of this division, and as approved by the *City Council*.
- (b) Every *organization lobbyist* shall file with the *City Clerk* a registration form that contains the following information:
  - (1) the *organization lobbyist's* name, address, and telephone number.
  - (2) a specific description of the *organization lobbyist* in sufficient detail to inform the public of the nature and purpose of its business.
  - (3) the name of each owner, officer, and employee of the *organization lobbyist* who is authorized to lobby *City Officials* on behalf of the *organization lobbyist*.
  - (4) the total number of lobbying contacts with *City Officials* made on behalf of the *organization lobbyist* by the *organization lobbyist's* owners, officers, or employees during the 60 calendar days preceding the filing date.

- (5) a description of each *municipal decision* the *organization lobbyist* has sought to influence during the 60 calendar days preceding the filing date; and the outcome sought by the *organization lobbyist*.
- (6) a listing of all owners, compensated officers, and *lobbyists* of the *organization lobbyist* who engaged in *fundraising activities* for a current elected *City Official* during the two year period preceding the filing date, along with the name of each applicable *City Official*.  
Notwithstanding the requirements of this subsection, *organization lobbyists* have no obligation to report *fundraising activities* that took place prior to January 1, 2007.
- (7) a listing of all owners, compensated officers, and *lobbyists* of the *organization lobbyist* who personally provided compensated campaign-related services to a current elected *City Official* during the two year period preceding the filing date, along with the name of each applicable *City Official*. Notwithstanding the requirements of this subsection, *organization lobbyists* have no obligation to report campaign-related services that were rendered prior to January 1, 2007.
- (8) a listing of all owners, compensated officers, and *lobbyists* of the *organization lobbyist* who personally provided compensated services under a contract with the *City* during the two year period preceding the filing date, along with the name of the *City* department, agency, or board for which the services were provided. Notwithstanding the requirements of this subsection, *organization lobbyists* have no

obligation to report compensated services provided prior to January 1, 2007.

(9) statements by a duly authorized owner or officer of the organization lobbyist that he or she:

(A) reviewed and understands the requirements of Division 40 governing municipal lobbying; and,

(B) reviewed the contents of the registration form and verified under penalty of perjury that based on personal knowledge or on information and belief, that he or she believes such contents to be true, correct, and complete.

(10) the printed name, title, and original signature of the individual making the statements required by subsection (b)(9).

(11) any other information required by the Enforcement Authority consistent with the purposes and provisions of this division and as approved by the City Council.

**§27.4010 ~~Lobbyist and Client~~ Registration Fees**

~~(a) At the time the Lobbyist registers pursuant to Section 27.4007, the Lobbyist shall pay:~~

~~(1) an annual Lobbyist registration fee of forty dollars (\$40); plus~~

~~(2) an annual Client registration fee of fifteen dollars (\$15) for each Client identified on the registration form.~~

~~(b) A Lobbyist who initially qualifies to register during the last quarter of a calendar year (October through December) pursuant to Section 27.4007 shall pay:~~

- (1) ~~a prorated Lobbyist registration fee of twenty dollars (\$20); plus~~
- (2) ~~a prorated Client registration fee of ten dollars (\$10) for each Client identified on the registration form.~~
- (c) ~~When a Client is acquired subsequent to the initial registration, the Lobbyist shall pay the Client registration fee when filing the information required by Section 27.4009.~~
- (d) ~~For the purpose of determining Client registration fees, a trade association or business organization qualified under Internal Revenue Code 501(c)(6) shall consider its members as one Client.~~
- (e) ~~For the purpose of determining Client registration fees, a single Client registration fee shall be paid for a Person, other than an individual, that employs more than one In-House Lobbyist.~~
- (f) ~~Fees may be paid or reimbursed by the Person, if any, who employs the Lobbyist.~~
- (a) At the time a lobbying firm registers pursuant to section 27.4007, the lobbying firm shall pay an annual registration fee based on the number of lobbyists identified on its registration form, plus an annual client registration fee for each client identified on the registration form.
  - (1) A lobbying firm that initially qualifies to register during the last quarter of a calendar year (October through December) pursuant to section 27.4007 shall pay prorated registration fees.
  - (2) When a lobbying firm adds a lobbyist subsequent to the lobbying firm's initial registration, the lobbying firm shall pay an additional

lobbyist registration fee when filing its amended registration form as required by section 27.4012.

(3) When a lobbying firm acquires a client subsequent to the lobbying firm's initial registration, the lobbying firm shall pay an additional client registration fee when filing its amended registration form as required by section 27.4012.

(4) For the purpose of determining client registration fees, a coalition or membership organization shall be considered a single client, even if one or more of its members also qualify as clients under section 27.4002.

(5) Registration fees may be paid or reimbursed by a client.

(b) At the time an organization lobbyist registers pursuant to section 27.4007, the organization lobbyist shall pay an annual organization lobbyist registration fee.

(1) An organization lobbyist that initially qualifies to register during the last quarter of a calendar year (October through December) pursuant to section 27.4007 shall pay a prorated registration fee.

(2) An organization lobbyist shall pay a single registration fee regardless of the number of its owners, officers, and employees who engage in lobbying activities.

(c) All registration fees shall be set by the City Council based upon the recommendation of the City Clerk. The City Clerk shall from time to time recommend fee amounts to the City Council that reflect, but do not exceed, the City's costs of administering the filing requirements set forth in this

division. A copy of the fee schedule shall be filed in the rate book of fees on file in the office of the Civ Clerk.

**§27.4012 Amendments to Registration Form**

~~Except as provided in Section 27.4015(b), Within ten calendar days of any change in the information required on their registration forms, Lobbyists lobbying firms and organization lobbyists shall file amendments to their registration form forms, with the next quarterly disclosure report, and shall disclose any disclosing the change in information required on the registration form as set forth in Section 27.4009.~~

**~~§27.4013 Duration of Status~~**

~~An individual who registers as a Lobbyist retains that status through January 5 of the following calendar year unless and until he or she terminates that status in accordance with Section 27.4022. An individual who continues to qualify as a Lobbyist on January 5 shall renew that registration on or before January 15 of each year.~~

**~~§27.4014 Notification of Activity Expense Paid to or Benefiting a City Official~~**

~~(a) Any Lobbyist required to file a disclosure report under the provisions of this division shall provide the following information to each City Official who is the beneficiary of an Activity Expense from the Lobbyist:~~

- ~~(1) the date and amount of the Activity Expense;~~
- ~~(2) a description of the Activity Expense provided to the City Official; and~~
- ~~(3) the client, if any, on whose behalf the expenditure was made.~~

~~(b) The information required to be disclosed pursuant to subdivision (a) shall be provided in writing to the City Official who is the beneficiary within twenty business days after the date of the expenditure.~~

**§27.4015 Quarterly Disclosure Report Required**

- (a) ~~Lobbyists~~ Lobbying firms and organization lobbyists shall file quarterly disclosure reports for every calendar quarter during which they retain their status as a Lobbyist lobbying firm or organization lobbyist.
- (b) ~~In lieu of amending the registration form, a Lobbyist may use the quarterly report to disclose any change in information required on the registration form as set forth in Section 27.4009.~~ Expenditure lobbyists shall file quarterly disclosure reports for every calendar quarter in which they qualify as expenditure lobbyists. An entity has no filing obligations as an expenditure lobbyist for any calendar quarter in which it does not meet the definition of an expenditure lobbyist.
- (c) ~~The Lobbyist shall file with the City Clerk the report with an original signature. Each lobbying entity shall file its quarterly disclosure report with the City Clerk, using forms provided by the City Clerk.~~

**§27.4016 Filing Deadline for Quarterly Disclosure Report**

~~Lobbyists~~ Lobbying entities shall file quarterly disclosure reports ~~with the City Clerk, with the Lobbyist's original signature,~~ no later than the last Day day of the months of April, July, October, and January. ~~Lobbyists~~ Lobbying entities shall disclose the information required by ~~Section~~ section 27.4017 for the calendar quarter immediately prior to the month in which the report is required to be filed.

**§27.4017 Contents of ~~Lobbyist's~~ Quarterly Disclosure Report**

~~A Lobbyist's quarterly disclosure report shall contain the following information:~~

- (a) ~~the Lobbyist's full name, business address, and business telephone number;~~



- ~~(b) the name, business address, and business telephone number of the  
Lobbyist's employer, if any;~~
- ~~(c) the name, business or mailing address, and business or message telephone  
number of each Client represented by the Lobbyist during the reporting  
period; and the specific Municipal Decision(s) for which the Lobbyist  
represented the Client during the reporting period;~~
- ~~(d) total Compensation received during the reporting period in connection with  
Lobbying, itemized by Client. For Lobbyists employed by an entity that  
provides Lobbying services by contract with Clients, the individual Lobbyist  
shall report his or her pro-rata share of Compensation received by, or  
entitled to be received by, the entity for Lobbying services provided to those  
Clients. Such Compensation shall be disclosed using the following ranges: [   
] 0-5,000; [ ] \$5,000-\$25,000; [ ] \$25,000-\$50,000; and [ ] Over \$50,000;~~
- ~~(e) an itemization, which includes the date, amount and description of any  
Activity Expenses made by the Lobbyist during the reporting period of \$10  
or more on any one occasion; or Activity Expenses made by the Lobbyist  
during the reporting period aggregating \$50 or more during the quarter, to  
benefit any single City Official on behalf of any one Client;~~
- ~~(f) the name and title of the City Official benefiting from each itemized Activity  
Expense;~~
- ~~(g) the name and address of the payee of each itemized Activity Expense;~~
- ~~(h) the name of the vendor if different from that of the payee of each itemized  
Activity Expense;~~

- (i) ~~the name of the *Client*, if any, on whose behalf each itemized *Activity Expense* was made;~~
- (j) ~~the total amount of all *Activity Expenses*, whether itemized or not, made by the *Lobbyist* during the reporting period; and~~
- (k) ~~any other information required by the *City Clerk* consistent with the purposes and provisions of this division.~~
- (a) Each *lobbying firm*'s quarterly disclosure report shall contain the following information:
  - (1) the *lobbying firm*'s name, address, and telephone number.
  - (2) the name, business or mailing address, and telephone number of each *client* represented by the *lobbying firm* during the reporting period (except that if the *client* is a coalition or membership organization, such identifying information need not be disclosed for any of its members who also qualify as *clients* under section 27.4002), along with the following information for that *client*:
    - (A) the specific *municipal decision(s)* for which the *lobbying firm* represented the *client* during the reporting period, and the outcome(s) sought by the *client*;
    - (B) the name and department of each *City Official* who was subject to *lobbying* by the *lobbying firm* with regard to that specific *municipal decision*;
    - (C) the name of each *lobbyist* employed by the *lobbying firm* who engaged in *lobbying activities* with regard to that specific *municipal decision*; and

- (D) the total *compensation* that the *lobbying firm* became entitled to receive for engaging in *lobbying activities* during the reporting period on behalf of that *client*. Such *compensation* shall be disclosed to the nearest thousand dollars.
- (3) an itemization of *activity expenses* that includes the following:
- (A) the date, amount, and description of any *activity expense* that exceeds \$10 on any single occasion made by the *lobbying firm* or any of its *lobbyists* during the reporting period for the benefit of a single *City Official* or any member of a *City Official's immediate family*;
- (B) the name, title, and department of the *City Official* who benefited, or whose *immediate family* benefited, from the itemized *activity expense*;
- (C) the name of each *lobbyist* who participated in making the *activity expense*;
- (D) the name and address of the payee of each itemized *activity expense*; and
- (E) the name of the *client*, if any, on whose behalf each itemized *activity expense* was made.
- (4) an itemization of any campaign contributions of \$100 or more made by owners, officers, or *lobbyists* of the *lobbying firm* to a *candidate* or a *candidate-controlled committee* during the reporting period, including the date and amount of the contribution and the name of the *candidate* supported.

- (5) an itemization of any campaign contributions of \$100 or more made by the *lobbying firm* or any of its owners, officers, or *lobbyists* during the reporting period to a *candidate*-controlled committee that is organized to support or oppose a ballot measure, including the name of the *candidate*, the date and amount of the contribution, and the name of the ballot measure committee.
- (6) for each instance of *fundraising activity* by an owner, officer, or *lobbyist* of the *lobbying firm* during the reporting period:
- (A) the name of the owner, officer, or *lobbyist* who engaged in the *fundraising activity*;
  - (B) the name of the elected *City Official* or *candidate* benefiting from the *fundraising activity*;
  - (C) a description of the ballot measure, if any;
  - (D) the date(s) of the *fundraising activity*;
  - (E) a brief description of the *fundraising activity*; and
  - (F) the approximate amount of (i) all contributions personally delivered by the owner, officer, or *lobbyist* to a *candidate* or a *candidate's* controlled committee; and (ii) all contributions for which the owner, officer, or *lobbyist* has identified himself or herself to a *candidate* or a *candidate's* controlled committee as having some degree of responsibility for raising.
- (7) for each owner, officer, and *lobbyist* of the *lobbying firm* who personally provided compensated campaign-related services to a

candidate or a candidate-controlled committee during the reporting period:

(A) the name of the owner, officer, or lobbyist who provided the services;

(B) the candidate's name, and the office sought by that candidate;

(C) the name of the candidate-controlled ballot measure committee and a description of the ballot measure, if applicable;

(D) the approximate amount of compensation earned during the reporting period for the services provided to the candidate or candidate-controlled committee; and,

(E) a description of the services provided.

(8) for each owner, officer, and lobbyist of the lobbying firm who personally provided compensated services under a contract with the City during the reporting period:

(A) the name of the owner, officer, or lobbyist who provided the services;

(B) the name of the department, agency, or board for which the services were provided;

(C) the approximate amount of compensation earned during the reporting period for the services provided under the contract; and,

(D) a description of the services provided.

- (9) a statement by a duly authorized owner or officer of the *lobbying firm* that he or she has reviewed the contents of the quarterly disclosure report and verified under penalty of perjury that based on personal knowledge or on information and belief, that he or she believes such contents to be true, correct, and complete.
- (10) the printed name, title, and original signature of the individual making the statement required by subsection (a)(9).
- (11) any other information required by the *Enforcement Authority* consistent with the purposes and provisions of this division and as approved by the *City Council*.
- (b) Each *organization lobbyist's* quarterly disclosure report shall contain the following information:

  - (1) the *organization lobbyist's* full name, address, and telephone number.
  - (2) for each *municipal decision(s)* for which the *organization lobbyist* engaged in *lobbying activities* during the reporting period:

    - (A) a description of the specific *municipal decision*, and the outcome sought by the *organization lobbyist*;
    - (B) the name and department of each *City Official* who was subject to *lobbying* by the *organization lobbyist* during the reporting period with regard to that specific *municipal decision*; and,
    - (C) the name of each owner, officer, or employee of the *organization lobbyist* who engaged in *lobbying activities* on

behalf of the organization lobbyist during the reporting period with regard to that specific municipal decision.

(D) the total number of lobbying contacts with City Officials made on behalf of the organization lobbyist by the organization lobbyist's owners, officers, or employees with regard to that specific municipal decision during the reporting period.

(3) an itemization of activity expenses that includes the following:

(A) the date, amount, and description of any activity expense that exceeds \$10 on any single occasion made by the organization lobbyist or any of its lobbyists during the reporting period for the benefit of a single City Official or any member of a City Official's immediate family;

(B) the name, title, and department of the City Official who benefited, or whose immediate family benefited, from the itemized activity expense;

(C) the name of each lobbyist who participated in making the activity expense; and,

(D) the name and address of the payee of each itemized activity expense.

(4) an itemization of any campaign contributions of \$100 or more made by owners, compensated officers, or lobbyists of the organization lobbyist to a candidate or a candidate-controlled committee during

the reporting period, including the date and amount of the contribution and the name of the *candidate* supported.

(5) an itemization of any campaign contributions of \$100 or more made by the *organization lobbyist* or any of its owners, compensated officers, or *lobbyists* during the reporting period to a *candidate-controlled committee* that is organized to support or oppose a ballot measure, including the date and amount of the contribution and the name of the ballot measure committee.

(6) for each instance of *fundraising activity* by an owner, compensated officer, or *lobbyist* of the *organization lobbyist* during the reporting period:

(A) the name of the owner, officer, or *lobbyist* who engaged in the *fundraising activity*;

(B) the name of the elected *City Official* or *candidate* benefiting from the *fundraising activity*;

(C) a description of the ballot measure, if any;

(D) the date(s) of the *fundraising activity*;

(E) a brief description of the *fundraising activity*; and

(F) the approximate amount of (i) all contributions personally delivered by the owner, officer, or *lobbyist* to a *candidate* or a *candidate's* controlled committee; and (ii) all contributions for which the owner, officer, or *lobbyist* has identified himself or herself to a *candidate* or a *candidate's* controlled



committee as having some degree of responsibility for raising

- (7) for each owner, compensated officer, and lobbyist of the organization lobbyist who personally provided compensated campaign-related services to a candidate or a candidate-controlled committee during the reporting period:
- (A) the name of the owner, officer, or lobbyist who provided the services;
  - (B) the candidate's name, and the office sought by that candidate;
  - (C) the name of the candidate-controlled ballot measure committee and a description of the ballot measure, if applicable;
  - (D) the approximate amount of compensation earned during the reporting period for the services provided to the candidate or candidate-controlled committee; and,
  - (E) a description of the services provided.
- (8) for each owner, compensated officer, and lobbyist of the organization lobbyist who personally provided compensated services under a contract with the Civ during the reporting period:
- (A) the name of the owner, officer, or lobbyist who provided the services;
  - (B) the name of the department, agency, or board for which the services were provided;

- (C) the approximate amount of *compensation* earned during the reporting period for the services provided under the contract;  
and
  - (D) a description of the services provided.
- (9) a statement by a duly authorized owner or officer of the *organization lobbyist* that he or she has reviewed the contents of the quarterly disclosure report and verified under penalty of perjury that based on personal knowledge or on information and belief, that he or she believes such contents to be true, correct, and complete.
- (10) the printed name, title, and original signature of the individual making the statement required by subsection (b)(9).
- (11) any other information required by the *Enforcement Authority* consistent with the purposes and provisions of this division and as approved by the *City Council*.
- (c) An *expenditure lobbyist's* quarterly disclosure report shall contain the following information:
  - (1) The name, address, and telephone number of the *expenditure lobbyist*.
  - (2) The name, title, address, and telephone number of the individual responsible for preparing the report.
  - (3) A description of each *municipal decision* that the *expenditure lobbyist* attempted to influence during the reporting period, and for each such *municipal decision*:

- (A) The total expenditures the expenditure lobbyist made during the reporting period for the purpose of attempting to influence that municipal decision. An expenditure is made on the date a payment is made or on the date consideration, if any, is received by the expenditure lobbyist, whichever is earlier. An expenditure lobbyist need not disclose expenditures for lobbying activities reported by a lobbying firm or organization lobbyist on a quarterly disclosure report.
- (B) The name, address, telephone number, and amount of payment for each person who made a payment, or the promise of a payment, of \$100 or more to the expenditure lobbyist for the express purpose of funding any expenditure identified in subsection (c)(3)(A).
- (C) The outcome sought by the expenditure lobbyist.
- (4) a statement by a duly authorized owner or officer of the expenditure lobbyist that he or she has reviewed the contents of the quarterly disclosure report and verified under penalty of perjury that based on personal knowledge or on information and belief, that he or she believes such contents to be true, correct, and complete.
- (5) the printed name, title, and original signature of the individual making the statement required by subsection (c)(4).
- (6) any other information required by the Enforcement Authority consistent with the purposes and provisions of this division, and as approved by the City Council.

**§27.4018 Amendments to Quarterly Disclosure Reports**

Any lobbying entity that discovers incomplete or inaccurate information in a quarterly disclosure report that it filed with the City Clerk shall, within ten calendar days of the discovery, file an amended quarterly disclosure report with the City Clerk disclosing all information necessary to make the report complete and accurate.

**§27.4018 27.4019 Accountability Retention of Records**

In addition to any other requirement of this division, every ~~Lobbyist~~ lobbying entity shall retain for a period of five years all books, papers, and documents necessary to substantiate the quarterly disclosure reports required to be made under this division.

**§27.4020 Forms to be Provided by the City Clerk**

~~Lobbyists shall file registration forms and quarterly disclosure reports required by this division on forms provided by the City Clerk.~~

**§27.4021 Verification of Registration Form and Quarterly Disclosure Report**

~~Lobbyists shall sign and verify registration forms and quarterly disclosure reports required by this division under penalty of California perjury laws.~~

**§27.4022 Termination of Lobbyist Status as Lobbying Firm or Organization Lobbyist**

~~An individual who~~ A lobbying firm or organization lobbyist that ceases being a Lobbyist lobbying entity shall notify the City Clerk of this status upon the quarterly disclosure report form provided by the City Clerk. Upon terminating, the ~~individual~~ lobbying firm or organization lobbyist shall report the any information required in ~~Section by section 27.4017 that remains unreported~~ has not been reported since the its last quarterly disclosure report.

§27.4023 **Other Obligations of a Lobbyist Individual Lobbyists**

~~Any individual who is required to register as a Lobbyist under the provisions of this division, shall:~~ Every lobbyist shall:

- (a) disclose his or her status as a ~~Lobbyist~~ lobbyist to a *City Official* before providing anything of value to that individual which would require disclosure as an ~~Activity Expense~~ to the *City Official* pursuant to Section 27.4014; making any activity expense to, or for the benefit of, that City Official or that City Official's immediate family;
- (b) abstain from doing any act with the purpose or intent of placing a *City Official* under personal obligation to the ~~Lobbyist~~ lobbyist, or to the ~~Lobbyist's~~ lobbyist's employer or ~~Client~~ client;
- (c) correct, in writing, any misinformation given to a *City Official*, specifying the nature of the misinformation;
- (d) not deceive or attempt to deceive a *City Official* as to any material fact pertinent to any pending or proposed ~~Municipal Decision~~ municipal decision;
- (e) not cause any communication to be sent to a *City Official* in the name of any fictitious ~~Person~~ person, or in the name of any real ~~Person~~ person, ~~except with~~ without the consent of such real ~~Person~~ person; and,
- (f) not attempt to evade the obligations in this section through indirect efforts or through the use of ~~Agents~~ agents, associates, or employees.

§27.4024 **Employment of City Official Employees by Lobbyist Lobbying Entity**

~~If any Lobbyist registered or required to be registered under Section 27.4007:~~

- (a) ~~employs, in any capacity whatsoever, or~~

- (b) ~~requests, recommends, or causes the *Lobbyist's* employer to employ any individual known to be a *City Official*, the *Lobbyist* shall file a written statement with the *City Clerk* within ten (10) *Days* after such employment. This statement shall set forth the name of the individual employed, the date first employed by the *Lobbyist* or the *Lobbyist's* employer, and that individual's position, title, and department in the *City*.~~

If any *lobbying entity* employs or retains a current *City Official*, or any member of that official's *immediate family*, that *lobbying entity* shall file a written statement with the *City Clerk* within ten calendar days after such employment commences. This statement shall set forth the name of the individual employed, the date the individual was first employed by the *lobbying entity*, and the individual's position, title, and department in the *City*.

**§27.4030 Gifts from Lobbying Entities and Lobbyists**

- (a) It is unlawful for a *lobbying firm* or any of its *lobbyists* to make a *gift*, act as an *agent* or intermediary in the making of a *gift*, or arrange for the making of a *gift* if:
- (1) the *gift* is given to a *City Official*, and
  - (2) the aggregate value of all *gifts* from the *lobbying firm* and its *lobbyists* to that *City Official* exceeds \$10 within a calendar month.
- (b) It is unlawful for a *organization lobbyist* or any of its *lobbyists* to make a *gift*, act as an *agent* or intermediary in the making of a *gift*, or arrange for the making of a *gift* if:
- (1) the *gift* is given to a *City Official*, and

- (2) the aggregate value of all gifts from the organization lobbyist and its lobbyists to that City Official exceeds \$10 within a calendar month.
- (c) For purposes of this section, an entity or individual "arranges for the making of a gift" if the entity or individual, either directly or through an agent, does any of the following:
- (1) delivers a gift to the recipient;
  - (2) acts as the representative of the donor, if the donor is not present at the occasion of a gift, except when accompanying the recipient to an event where the donor will be present;
  - (3) invites or sends an invitation to an intended recipient regarding the occasion of a gift;
  - (4) solicits responses from an intended recipient concerning his or her attendance or nonattendance at the occasion of a gift;
  - (5) is designated as the representative of the donor to receive responses from an intended recipient concerning his or her attendance or nonattendance at the occasion of a gift; or,
  - (6) acts as an intermediary in connection with the reimbursement of a recipient's expenses.

**§27.4025 §27.4040 Powers and Duties of the City Clerk**

- (a) Upon receipt of a written request, the City Clerk may issue a notice of ~~registration requirements~~ filing obligations to any ~~Person~~ person whom a City Official or any other ~~Person~~ person has reason to believe should be ~~registered~~ file a registration form or quarterly disclosure report under this division. Before sending the notice, the Clerk:

- (1) shall require the City Official or Person ~~person~~ making the request to provide a written statement of the factual basis for the belief; and,
  - (2) shall determine whether sufficient facts exist to warrant sending the notice.
- (b) Any ~~individual~~ person who in good faith and on reasonable grounds believes that he, ~~or she, or it~~ is not required to comply with the provisions of ~~Section~~ sections 27.4007 or 27.4015 by reason of being exempt under any provision of this division shall not be deemed to have violated the provisions of ~~Section 27.4007~~ these sections if, within ten ~~(10)~~ Days calendar days after the City Clerk has sent specific written notice, the ~~individual~~ person either complies with the requirements of this division, or furnishes satisfactory evidence to the Clerk that he, ~~or she, or it~~ is exempt from ~~registration~~ filing obligations.
- (c) As soon as practicable after the close of each quarter, the City Clerk shall complete a summary of the information contained in registration forms and quarterly disclosure reports required to be filed under the provisions of this division. This summary shall be forwarded to the Mayor, ~~and~~ City Council, and the Enforcement Authority.
- (d) The City Clerk shall preserve all registration forms and quarterly disclosure reports required to be filed under this division for a period of five years from the date of filing. These registration forms and quarterly disclosure reports shall constitute part of the public records of the Clerk's office, and shall be open to public inspection. Copies shall be made available by the Clerk upon request and payment of any lawful copy charges.



- (e) The City Clerk shall report apparent violations of this division to the *Enforcement Authority*.
- (f) The City Clerk shall have the power to adopt all reasonable and necessary procedures to implement this division.

~~§27.4026~~ §27.4041 **Inspection of Forms and Reports**

- (a) The City Clerk shall inspect, or cause to be inspected, each registration form and quarterly disclosure report filed under this division within ~~twenty (20)~~ working Days thirty calendar days after the filing deadline. The Clerk shall notify an ~~individual~~ entity to file a registration form or quarterly disclosure report under this division if it appears that the ~~individual~~ entity has failed to file as required by law or that the registration form or quarterly disclosure report filed by the ~~individual~~ entity does not conform to law.
- (b) Any ~~individual~~ entity notified to file an original or amended registration form or quarterly disclosure report shall file the form or report by the deadline imposed in the notification from the Clerk.

§27.4045 **Online Disclosure of Forms and Reports**

- (a) It is the intent of the City to implement an electronic filing system that facilitates the disclosure of lobbying activities engaged in by lobbying entities. When a practical and financially feasible electronic filing system has been implemented by the City Clerk, the provisions of this section shall be in effect.
- (b) Every lobbying entity required to file a registration form or quarterly disclosure report pursuant to this division shall use the City Clerk's electronic filing system to file online such forms or reports.

- (c) Every lobbying entity shall continue to file a paper copy of each form or report with the City Clerk. The paper copy shall continue to be the original form or report for audit and other legal purposes.
- (d) The information contained on a form or report filed online shall be the same as that contained on the paper copy of the same form or report that is filed with the City Clerk.

~~§27.4027~~ §27.4050 **Enforcement Authority: Duties, Complaints, Legal Action, Investigatory Powers**

- (a) Any ~~Person~~ person who believes that violation of any portion of this ~~Division~~ division has occurred may file a complaint with the *Enforcement Authority*.
- (b) The *Enforcement Authority* shall have such investigative powers as are necessary for the performance of the duties prescribed in this ~~Division~~ division. The *Enforcement Authority* may demand and shall be furnished ~~records of Lobbying Activity Expenses activity expenses at any time; any~~ records that may prove or disprove the accuracy of information contained in a registration form or quarterly disclosure report. In the event that there is a claim that any such records are entitled to protection from disclosure under the attorney-client privilege, the Enforcement Authority shall be provided with sufficient documentation to verify the information to which the City is entitled under California Business and Professions Code section 6009.
- (c) The *Enforcement Authority* shall determine whether ~~required statements and declarations~~ forms and reports have been filed as required and, if so, whether they conform ~~with~~ to the requirements of this ~~Division~~ division.

- (d) The *Enforcement Authority* may elect to enforce the provision of this ~~Division~~ division administratively pursuant to Chapter 2, Article 6, Division 4, or may otherwise recommend or refer enforcement actions to the City Attorney or other law enforcement agency with jurisdiction.

~~§27.4028~~ §27.4055 **Violations, Penalties and Defenses**

- (a) Violations of this division may be prosecuted as misdemeanors subject to the fines and custody provided in San Diego Municipal Code section 12.0201. The *City* may also seek injunctive relief and civil penalties in the Superior Court pursuant to Municipal Code section 12.0202 ~~or pursue any administrative remedy set forth in Chapter 1 of this Code. In addition, if the matter is pursued by the *Enforcement Authority* as an administrative matter, any person found in violation is subject to the administrative penalties provided for in Chapter 2, Article 6, Division 4.~~
- (b) In addition to any other penalty or remedy available, if any ~~individual~~ lobbying entity fails to file any registration form or quarterly disclosure report required by this division after any deadline imposed by this division, that ~~individual~~ lobbying entity shall be liable to the *City* of San Diego in the amount of ~~ten dollars (\$10)~~ per Day calendar day after the deadline until the report is filed, up to a maximum amount of \$100.
- (c) Provisions of this division need not be enforced by the *City* Clerk if it is determined that the late filing was not willful and that enforcement of the penalty would not further the purposes of this division.
- (d) Provisions of this division shall not be waived if a registration form or quarterly disclosure report, or an amendment to correct any deficiency in a

registration form or quarterly disclosure report, is not filed by the deadline imposed in the notification from the *City* Clerk of the filing requirement.

- (e) Any limitation of time prescribed by law within which prosecution for a violation of any part of this division must be commenced shall not begin to run until the *City's* discovery of the violation.

### §27.3503 **Definitions**

Each word or phrase that is defined in this Division appears in the text of this Division in italicized letters. Except as otherwise provided herein, the terms and provisions of this Division shall have the meanings and shall be interpreted in accordance with the applicable definitions and provisions of the Political Reform Act of 1974, as amended (California Government Code sections 81000 through 91014) and the regulations of the California Fair Political Practices Commission, as amended. For purposes of this Division, the following definitions shall apply:

*Benefit through Influencing a municipal decision* [No change in text]

~~*In-House Lobbyist* means an individual who engages in *Lobbying* solely on behalf of his or her business or employer. *In-House Lobbyist* includes, but is not limited to, owners, officers, and salaried employees of a business.~~

*Loan through Lobbying* [No change in text]

*Lobbying firm* means any entity defined as a "lobbying firm" in San Diego

Municipal Code section 27.4002.

~~*Lobbyist* means an individual who receives or becomes entitled to receive the threshold compensation amount during any calendar quarter for *Lobbying*, and who~~

~~has had at least one Direct Communication with a City Official in that calendar quarter. Lobbyist includes:~~

- ~~(a) In-House Lobbyists who engage in Lobbying;~~
- ~~(b) individuals under contract to engage in Lobbying; and~~
- ~~(c) individuals employed by a firm under contract to provide Lobbying services, whose pro-rated salary for Lobbying activities meets the threshold compensation during any calendar quarter.~~

Lobbyist means any individual defined as a "lobbyist" in San Diego Municipal Code section 27.4002.

~~Lobbyist Employer means any person, other than a Lobbying firm, who:~~

- ~~(a) Employs one or more Lobbyists for economic consideration, other than reimbursement for reasonable travel expenses, for the purpose of influencing a municipal decision; or~~
- ~~(b) Contracts for the services of a Lobbying firm for economic consideration, other than reimbursement for reasonable travel expenses, for the purpose of influencing a municipal decision.~~

*Local Code Filer through Municipal Decision* [No change in text]

Organization lobbyist means any entity defined as an "organization lobbyist" in San Diego Municipal Code section 27.4002.

*Party through Public Hearing* [No change in text]

*Restricted source includes:*

- (a) a ~~Lobbyist~~ lobbyist, lobbying firm, or ~~Lobbyist Employer~~ organization lobbyist, seeking to influence a municipal decision;
- (b) a person doing business with the City; and
- (c) a person who, during the reporting period, directly communicated with a City Official pertaining to a municipal decision which would have a material financial effect on such person; or
- d) a person who is a party to a municipal decision which within the prior nine months was pending before the City Official, and for nine months following the date a final decision is rendered in the proceeding.

A restricted source does not include an individual (other than a ~~Lobbyist~~ lobbyist) who is employed by a restricted source.

Travel expenses [No change in text]

CMB:als  
6/28/07  
7/20/07REV.  
Or.Dept:Ethics  
O-2007-137

000563

COMMITTEE ACTION SHEET

54  
7/31

COUNCIL DOCKET OF \_\_\_\_\_

☐ Supplemental ☐ Adoption ☐ Consent ☐ Unanimous Consent Rules Committee Consultant Review

R -

O -

Amendments to the Municipal Lobbying Ordinance

☒ Reviewed ☐ Initiated By Rules On 3/07/07 Item No. 1

RECOMMENDATION TO:

Approve

VOTED YEA: Peters, Young, Maienschein, Frye, Madaffer

VOTED NAY:

NOT PRESENT:

CITY CLERK: Please reference the following reports on the City Council Docket:

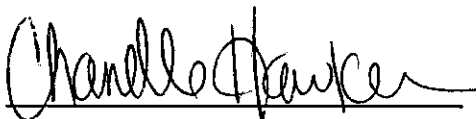
REPORT TO THE CITY COUNCIL NO.

COUNCIL COMMITTEE CONSULTANT ANALYSIS NO.

OTHER:

Ethics Commission Memorandum dated February 21, 2007; Ethics Commission's PowerPoint dated March 7, 2007; Ethics Commission Lobbying Firm Quarterly Disclosure Report Form

COUNCIL COMMITTEE CONSULTANT



000565

CITY OF SAN DIEGO  
ETHICS COMMISSION

Office of the Executive Director

MEMORANDUM

**DATE:** February 21, 2007

**TO:** The Committee on Rules, Open Government and Intergovernmental Relations

**FROM:** Stacey Fulhorst, Executive Director

**SUBJECT:** Proposed Amendments to the Municipal Lobbying Ordinance  
(San Diego Municipal Code sections 27.4001, et seq.)

---

*A. Updates since October 25, 2006, Rules Committee Meeting*

On October 25, 2006, the Ethics Commission made a presentation to the Rules Committee regarding its proposed amendments to the City's Lobbying Ordinance. At that time, the Rules Committee asked the Commission to consider the following issues, and to report back with its recommendations:

- Consider whether to narrow the scope of who is a "City Official" to require lobbyists to disclose only those contacts with high-level officials, not mid-level officials.
- Consider modifying the requirement that lobbyists disclose their campaign fundraising activities for the past four years on their registration forms, and in particular whether a shorter time period would be more appropriate.
- Consider adding a requirement that lobbyists disclose campaign services provided to current elected officials.
- Consider clarifying the language regarding campaign fundraising disclosures.
- Consider clarifying the language regarding reportable compensation.
- Consider clarifying and/or narrowing the definition of a "contact" with a City Official.

After considering the issues raised at the October 25, 2006, Rules Committee meeting, the Commission has amended its recommendations as follows:

- The definition of "City Official" has been narrowed in scope to include only twenty-nine high-level positions at the City and at City agencies (this list includes members of City boards and commissions, as well as the positions of City Manager, Assistant City Manager, and Deputy City Manager which are presently nonexistent under the "strong Mayor" form of government).



- The requirement to disclose campaign fundraising information on lobbyist registration forms has been changed from four years to two years. In addition, a "grandfather" provision has been added to exempt fundraising efforts that occurred prior to January 1, 2007. It is important to keep in mind that this disclosure is extremely limited and essentially requires the lobbyist to simply identify the name of the elected official who benefited from the fundraising efforts. There is no requirement to disclose specific dates or amounts raised.
- Also with regard to the disclosure of campaign fundraising activities, the phrase, "contributions the lobbyist knows or has reason to know were raised" has been deleted and replaced with the same language used in the definition of "fundraising activity." This language requires lobbyists to disclose contributions that are personally delivered to a candidate or to a candidate's committee, as well as contributions that the lobbyist identifies himself or herself to the candidate as having some responsibility for raising.
- There is a new requirement for the disclosure of a lobbyist's compensated campaign-related services. The applicable language is patterned after the provisions requiring the disclosure of campaign fundraising – lobbyists would be required to disclose very limited information for compensated campaign services provided to an elected City Official within the past two years on their registration forms, and disclose more detailed information on their quarterly disclosure reports for compensated campaign-related services provided to a candidate or a candidate-controlled committee during the reporting period.
- Language regarding reportable compensation has been revised to state that lobbyists must disclose the amount of compensation they receive for "lobbying activities," which includes direct communications with City Officials, as well as monitoring decisions, preparing testimony, conducting research, attending hearings, communicating with clients, and waiting to meet with City Officials.
- The definition of "contact" has been revised to clarify that it includes only those instances of direct communication with City Officials that are made for the purpose of influencing a municipal decision. Although the Rules Committee asked the Commission to consider whether it would be appropriate to limit "contacts" to certain locations or lengths of time, the Commission ultimately concluded that such an approach would create loopholes that would inevitably be used by lobbyists to avoid disclosure. For example, if a "contact" is defined as only those communications that take place in the office of a City Official, lobbyists could simply ensure that their contacts took place in another location. Similarly, if the ordinance includes a time limit for contacts, it would inevitably result in multiple, shorter meetings with lobbyists. [It is important to distinguish the definition of "contact" in the lobbying ordinance from a law or policy regulating ex-parte communications. As you will recall, such a law or policy was proposed by Carl DeMaio at the October 25, 2006, Rules Committee meeting. This issue has been placed on the Commission's legislative agenda for 2007 at the request of the Rules Committee.]

In addition, during the course of the Commission's deliberations over the past few months, several other issues were brought to the Commission's attention that resulted in the following changes to the draft ordinance:

- The definition of "client" has been updated to include members of a coalition or membership organization who pay \$1,000 or more for a lobbyist's services. This will ensure that all relevant information regarding the financing of lobbying activities is disclosed to the public on the lobbyist registration forms. This change was made as a result of information obtained by the Commission during the course of recent enforcement activities. Essentially, there is a new trend in "grassroots" lobbying whereby a lobbyist retained and financed by an unpopular or unsympathetic client will recruit members of the public to join the cause, and then hide the identity of the original client by disclosing that the firm's client is a "coalition" of "concerned citizens."
- The provisions that address the disclosure of compensation have been amended to clarify that a lobbyist must report the compensation received from each client, but is not required to itemize the compensation received for each municipal decision he or she attempts to influence on the client's behalf.
- The definition of "expenditure lobbyist" (a lobbying entity that does not have any direct communications with City Officials, but makes expenditures for public relations, advertising, public outreach, etc., to influence a municipal decision) has been revised as follows: (1) the \$5,000 threshold applies to any number of municipal decisions rather than to a single decision; (2) the corresponding time period for the threshold is a calendar quarter rather than ninety consecutive days; and (3) language has been added to clarify that an expenditure is considered made when a payment is made or when consideration is received.
- A new provision has been added that would require lobbyists to disclose compensated services they provide pursuant to a contract with the City. This provision is based on new information recently brought to the Commission's attention. In particular, in the past the City has retained lobbying firms, including some lobbying firms that are registered with the City to influence local municipal decisions, to assist with the City's lobbying efforts at the state and federal level. In addition, the City has hired individuals who previously lobbied the City. Because several other provisions recommended by the Commission would require the disclosure of activities that may serve to create a special relationship between a lobbyist and a City Official, the Commission believes that lobbyists should also disclose whether they have provided compensated services under a contract with the City. It should be noted that both Los Angeles and San Francisco require lobbyists to disclose contracts they have with their respective cities.

At this time, it is the Commission's view that the proposed amendments are in final form and are ready for consideration and approval by the Rules Committee. There are lobbyists who continue to object to the Commission's recommendations by asserting that the proposals are "too complicated," or that there has been "no legal analysis" of the recommended changes, or that the proposed amendments constitute "a solution in search of a problem." As discussed in greater detail below, the Commission does not believe there is any basis in fact for these claims. Instead, as demonstrated by the information set forth below, the proposed reforms will fix a series of problems that exist with the current ordinance, and will serve to prevent corruption and the appearance of corruption by creating far more transparency in the lobbying process. Moreover, as a result of the thorough legal analysis performed by the Commission's General Counsel throughout the past fifteen months, the Commission is confident that its proposals will withstand judicial scrutiny. The Commission does, of course, defer

to the City Attorney's Office to advise you on the legal issues associated with the Commission's proposals.

*B. Foundation for Commission's Proposals*

As the Commission explained at the October 25, 2006, Rules Committee meeting, each one of the Commission's proposals has been closely drawn to address an actual problem in terms of the effectiveness of the existing laws, or to address real and perceived corruption in the lobbying process. The following is an overview of the substantive proposed changes and the corresponding rationale:

New Definition of Lobbyist and Registration Threshold:

As explained at length in my memorandum to the Rules Committee dated October 19, 2006, the current definition of lobbyist and the registration threshold simply do not work. Investigations conducted by Commission staff reveal that there are people engaged in continuous and substantial lobbying of City Officials, yet they are not currently required to register because they do not meet the compensation threshold (currently \$2,700 in a calendar quarter). For example, a lobbyist who works in-house for a company and earns \$100,000 per year could meet with the staff in each of the eight Council offices once a week for twelve weeks, and still not meet the quarterly compensation threshold. The current law, therefore, allows a substantial amount of lobbying to take place without any disclosure to the public. In addition, the current system improperly equates earnings with influence, and requires an employee who earns \$200,000 per year to register as a lobbyist much sooner than an employee of another company who earns \$50,000 per year, even if they both engage in the same amount of lobbying activities. The Commission has also found that the current system is ineffective in terms of enforcement because it is very difficult to determine the precise amount of time someone spends on lobbying activities, which is essential in order to compute whether or not the individual reached the registration threshold.

In order to correct these problems, the Commission has proposed a \$1 threshold for lobbying firms (contract lobbyists hired by third parties) and a contacts-based threshold for organization lobbyists (companies that employ lobbyists in-house). As discussed at great length in my previous memorandum, the Commission determined that the contacts-based threshold (10 contacts in 60 calendar days) is the best means of regulating significant attempts to influence decisions that may affect the revenue of a lobbyist's employer, without also inadvertently requiring average citizens to register as lobbyists for simply exercising their right to petition their elected officials on an issue that may affect their employers.

It is important to note that members of the public and regulated community who communicated with the Commission on the threshold issue overwhelmingly indicated their support for the proposed \$1 threshold for lobbying firms, and the proposed contacts-based threshold for organization lobbyists. In other words, the Commission heard no objections to the proposed registration thresholds, with the exception of several lobbyists who recommended that the Commission go further in its definition of lobbyist by including people who are not compensated for their lobbying activities.

The Commission's proposals include a third category of lobbyist known as an "expenditure lobbyist." This is an entity or individual that attempts to indirectly influence municipal decisions by spending money on public relations, media relations, advertising, public outreach, etc. The Commission

concluded that it is important for these activities to be disclosed to the public if the related costs meet or exceed \$5,000 within a calendar quarter. The Commission based this proposal on its experience with several enforcement matters that involved spending by special interests to generate public support for a particular issue. In those enforcement matters, the sources of the expenditures were never disclosed, and both the public and the City Officials involved in the municipal decisions failed to receive important information that would have been relevant to their assessment of the issues.

Disclosure of Campaign Contributions and Fundraising:

As discussed in greater detail below, there are many examples throughout this country in which lobbyists obtain, or appear to obtain, unique access to elected officials via campaign contributions and campaign fundraising. In addition, the Commissioners considered the personal experience of one of the Ethics Commissioners, who explained that he received special access (e.g., private telephone numbers and email addresses) for public officials after he engaged in campaign fundraising efforts to benefit these officials. In order to address the appearance of corruption that is created when lobbyists seemingly obtain unique access to elected officials, the Commission has included proposals that would require lobbyists to disclose their own campaign contributions, as well as their campaign fundraising activities.

It should be noted that, at one point during its deliberations, the Commission considered whether the appearance of corruption created by lobbyists engaging in campaign fundraising efforts to benefit the elected officials they may seek to influence was so great that a ban on fundraising by lobbyists was warranted. At that time, Jim Sutton (a lobbyist representing a group of clients) strenuously opposed the proposed ban, and promoted disclosure as a preferable alternative. In a letter dated July 13, 2006, Mr. Sutton asked the Ethics Commission to let "the sun shine on the fundraising activities of lobbyists," in lieu of a prohibition on fundraising by lobbyists. When the Commission ultimately decided to recommend disclosure of fundraising in lieu of an outright ban, Mr. Sutton clarified that his recommendation for transparency was only intended to cover those campaign contributions that a lobbyist personally delivers to a candidate. In the Commission's experience, this approach would easily enable lobbyists to circumvent disclosure rules by simply asking someone else to deliver the contributions on their behalf. In addition, this approach would ignore prevalent practices in campaign fundraising that involve the coding of contribution envelopes so that lobbyists receive credit for contributions sent directly by contributors to a candidate's campaign committee.

Both Los Angeles and San Francisco require lobbyists to disclose their fundraising activities. The Commission reviewed the laws in effect in these other cities and ultimately agreed with Mr. Sutton and others that the language used by these other jurisdictions could be improved upon to clarify the underlying intent. Accordingly, the Commission narrowly tailored the language in the relevant sections to require that lobbyists disclose (1) all contributions personally delivered by the lobbyist, and (2) all contributions for which the lobbyist "has identified himself or herself to a candidate or candidate's controlled committee as having some degree of responsibility for raising." In other words, if the lobbyist takes credit for providing a candidate with contributions, then the lobbyist should disclose the amount of those contributions on a quarterly disclosure report.

Some lobbyists have objected to this proposal and suggested that such a disclosure requirement should apply to all fundraisers and should be included in the City's campaign laws. Although the Commission may ultimately recommend such disclosure by candidate committees under the City's

campaign laws, it is the Commission's view that it is certainly appropriate to impose this requirement on paid lobbyists at this time because of the role that they play in influencing municipal decisions. The public has an undeniable interest in obtaining information regarding the different ways in which paid lobbyists obtain access and/or influence.

Disclosure of Campaign-Related Services:

During the course of its deliberations over the past fifteen months, the Commission was advised by a lobbyist that it is incorrect to assume that a special relationship exists between an elected official and his or her campaign consultants, and that it is often the case that elected officials are not fond of their respective campaign consultants for a variety of reasons. This information was contradicted by Councilmembers Madaffer and Frye at the Rules Committee meeting on October 25, 2006, at which time they suggested that the Commission consider a requirement that lobbyists disclose these prior relationships with elected officials.

The Commission staff subsequently conducted additional research and heard from various Council staffers that elected officials generally have a very good relationship with the campaign consultants who helped them gain elective office. By way of example, one Council staffer reported that Larry Remer had such a close relationship with former Councilmember Ralph Inzunza after he served as Councilmember Inzunza's campaign consultant that the Councilmember used a list of concerns prepared by Remer and printed on the letterhead of Remer's company (The Primacy Group) when the City Council was considering the creation of the Ethics Commission and the adoption of the Ethics Ordinance. Council staffers pointed out that it is typically only losing candidates who have complaints regarding the services provided by their consultants.

Disclosure of City Contracts:

As discussed above, the Commission received information over the past few months suggesting that lobbyists who have City contracts may develop special relationships with certain City Officials, and that such relationships should be disclosed if these lobbyists are also paid by private parties to influence the decisions made by City Officials. The rationale behind this recommendation is very similar to the rationale discussed above with respect to the disclosure of campaign-related services in that both disclosures would create a higher degree of transparency than currently exists.

Disclosure of City Officials Lobbied:

The Commission's rationale for this proposal is elementary: the most important piece of information the public needs regarding compensated efforts to influence the decisions of City Officials is the identity of the officials who were actually lobbied. Without this information, the public has no way of determining which officials may have been influenced by a lobbyist, and no way to rationally assess whether any acts of undue influence took place.

Several lobbyists recommended that lobbyists should be required to disclose the name of the department lobbied, but not the identity of the City Official. The Commissioners rejected this recommendation because they believe there is a very important distinction between meeting with an elected official and a Council staffer. The Commission also heard from several lobbyists that it would be too burdensome to identify every City Official present at a particular meeting. After further

consideration, the Commission modified its recommendations to require that lobbyists only disclose contacts with a select group of high level officials.

Some lobbyists also objected to disclosing the identity of City Officials they lobby, contending that that City Officials will avoid talking to them for fear of being "called out on a public report." The Commission staff has conferred with several City Officials on this issue, each of whom expressly deny that they would be concerned about being identified on a lobbyist disclosure report. They point out that they are frequently required to provide records and calendars in response to Public Records Act requests, and that their activities as government employees are continuously subject to public scrutiny. In fact, public access to the calendars of City Officials was the subject of an October 16, 2005, *Union Tribune* article (Attachment 6) that detailed the contacts various individuals had with City Officials over a specific period of time.

#### Gifts from Lobbyists:

The Commission has proposed a \$10 per month limit on gifts from lobbyists to City Officials. This proposal stems from the Commission's belief that, in the view of the public, City Officials may be influenced in the performance of their official duties if they receive an expensive meal or a ticket to an event from a lobbyist. The recent conviction of a United States Congressman in connection with excessive gifts from a lobbyist has reinforced the public's belief that gifts from lobbyists to government officials are indications of undue influence.

It is relevant to note that, as reflected in the comparison chart, other jurisdictions throughout California have similar gift limits, or have imposed an outright ban on gifts from lobbyists. Rather than ban all gifts outright and potentially expose City Officials to an enforcement action for simply accepting a cup of coffee from a lobbyist, the Commission ultimately settled on the \$10 limit to allow officials to accept gifts with a nominal value. It is also relevant to note that, throughout the course of the Commission's deliberations on the Lobbying Ordinance, the Commission did not hear any objections to this proposal (other than one that indicated the \$10 limit should be slightly higher as the cost of a hamburger has increased over time).

#### *C. Level of Complexity*

As discussed above, some lobbyists have contended that the Commission's proposals are too complicated and burdensome, and are far more complex than comparable laws in other jurisdictions. The Commission has made every effort to propose reforms that are clear and concise, and that will not impose unnecessary burdens on the regulated community. In addition, the Commission has conducted a thorough review of the laws in other jurisdictions in California and made every effort to streamline and simplify the corresponding provisions whenever possible. The following are examples of laws in place in other jurisdictions which the Commission rejected or modified because they appear to be too complicated or burdensome:

- Both San Francisco and Los Angeles require lobbyists to itemize the contributions obtained through fundraising activities. In other words, lobbyists must identify the name of each contributor, the date of each contribution, the amount of each contribution, the name of the candidate who benefited, etc. Los Angeles also requires lobbyists to provide specific information regarding written political fundraising solicitations (whether or not the

solicitations actually resulted in contributions). The Commission opted to propose a much simpler, more straightforward approach that still ensures that the public has sufficient information about a lobbyist's fundraising activities. The Commission's proposal would require lobbyists to disclose the date and description of the fundraising effort, and the total amount raised. In other words, the Commission's proposal does not require lobbyists to itemize each contribution and identify the name of each contributor.

- Los Angeles requires lobbyists to fill out a separate disclosure page for all contributions made by lobbyists "at the behest" of City Officials to other candidates, which includes contributions made at the direction of the lobbyist, or in cooperation, consultation, or coordination with the lobbyist. Similarly, lobbyists in Los Angeles must disclose donations made "at the behest" of City Officials to charitable, religious, and non-profit organizations. The Commission received input from a lobbyist with experience in Los Angeles who explained that the "at the behest" language had caused a great deal of confusion because it arguably requires lobbyists to disclose campaign contributions and charitable donations, even if they were only discussed with City Officials in passing. Accordingly, the Commission decided against recommending a similar provision.
- San Francisco requires lobbyists to disclose gifts of tickets or admissions to political fundraisers or fundraising events sponsored by a 501(c)(3) organization. The Commission decided against recommending a similar provision in San Diego's lobbying laws because it appears somewhat inconsistent with San Diego's Ethics Ordinance (and the state's Political Reform Act), which expressly exempt these types of tickets from the gift regulations.
- The State of California requires individual lobbyists, as well as the lobbying firms/lobbyist employers who employ them, to prepare separate disclosure reports. In many instances, the lobbyist must disclose the exact same information as his/her employer (e.g. activity expenses and campaign contributions). The Commission viewed this system as unnecessarily duplicative and burdensome, and opted instead to recommend that lobbying firms and organization lobbyists file the disclosure reports, which will include information supplied by the individual lobbyists.
- The State of California requires people who retain lobbying firms to file disclosure reports in the same time and manner as employers who have lobbyists working for them in-house. In other words, the clients of lobbying firms must also file disclosure reports and provide specific information regarding their payments to lobbying firms and their campaign contributions. The Commission has not recommended that the City of San Diego adopt similar requirements. The information disclosed by the clients appears to be duplicative of the information disclosed by the lobbyists with the exception of the clients' campaign contributions, which are disclosed by the recipient campaign committees.
- The State of California does not exempt government entities from its lobbying regulations. If a similar provision were enacted in San Diego, employees of the County of San Diego, the Port District, the City of Chula Vista, the City of National City, etc., would be required to register as lobbyists and disclose their activities if they met with City of San Diego officials regarding a municipal decision. The Commissioners opted to maintain the current exemption

for government agencies because they believe the public is primarily interested in receiving information regarding efforts by private companies to influence government decisions.

Although several lobbyists have generally criticized the Commission's proposed reforms as too complicated, these lobbyists have not provided the Commission with any information regarding a specific provision that is allegedly problematic. Instead, the Commission heard from members of the public that the proposed reforms are clear and comprehensible. The Commission first learned that some lobbyists believe the proposals are too complicated at the October 25, 2006, Rules Committee meeting. In particular, one lobbyist expressed his belief that the proposals are "more complicated than any lobbying law in any other city in California." In his October 23, 2006, letter to Council President Peters, lobbyist Jim Sutton cites the following as the basis for his belief that the Commission's proposals are too complex:

- Mr. Sutton describes the registration thresholds proposed by the Commission as "inconsistent" because they treat contract lobbyists differently than employees who lobby on behalf of their employers.

As demonstrated in the comparison chart prepared by the Commission (Attachment 4), other jurisdictions (e.g. Los Angeles, San Francisco, and the State of California) recognize the need to treat different types of lobbyists differently in terms of registration thresholds. Not only is San Diego not unique in terms of these "inconsistent" thresholds, but the Commission's current proposal is arguably far simpler than the current system or the alternatives. Instead of requiring lobbyists to register if they earn a specific amount of money in a certain time period or if they spend a certain amount of time lobbying in a certain period, the proposal would simply require all compensated contract lobbyists to register. There is no simpler way to impose a registration threshold. With respect to employees who lobby on behalf of their employers, they will need to register if they have ten lobbying contacts with high level City Officials in a sixty-day period. It is not a complex proposition to require lobbyists to count their number of lobbying contacts, and is clearly far less complicated than having them, or any enforcement agency, calculate the amount of compensation earned for lobbying activities.

- Mr. Sutton also references the fact that the Commission's proposals do not require homeowners associations and advocacy groups to register "simply because their members are not paid."

The Commission considered the request by Mr. Sutton and other lobbyists to regulate uncompensated advocacy, but ultimately concluded that this type of regulation would have the unintended effect of also regulating average constituents seeking to contact their elected officials. In other words, it is the Commission's view that regulating uncompensated lobbying activities would inevitably result in an overly-complex ordinance and a highly confused regulated community. Moreover, as evidenced in the comparison chart, the vast majority of other jurisdictions in California do not regulate uncompensated lobbyists.

- As a purportedly "more straightforward alternative," Mr. Sutton recommends that the City of San Diego adopt the state's lobbying disclosure laws because these laws have been in effect for thirty years and because the state's Fair Political Practices Commission [FPPC] has a staff of technical advisors.



As some Councilmembers may recall, Mr. Sutton made a very similar recommendation when the City Council was considering the Commission's proposed changes to the City's campaign laws in 2003 and 2004. Then, as now, the adoption of state law would have the net effect of removing the proposals that are most objectionable to Mr. Sutton and his clients. In this case, the state does not require lobbyists to identify the names of the officials they have lobbied, nor does it require lobbyists to disclose campaign fundraising activities. As reflected in the comparison charts, the majority of the other provisions in state law are identical or substantially similar to those proposed by the Commission. Moreover, as discussed above, the Commission has not recommended several provisions that currently exist in state law because they believe that they are complicated, duplicative, and/or burdensome.

Finally, it is important to mention that the state's lobbying laws apply only to state lobbyists. It is highly unlikely that the FPPC would use its limited resources to provide advice to lobbyists whose local activities are not under its jurisdiction. In other words, "adopting" state law would not bring local lobbying activities under the purview of the FPPC. Instead, it would only impose on local lobbyists a set of laws expressly tailored for the unique structure of the state.

In order to highlight the relative simplicity and straightforward nature of the Commission's proposed reforms, the Commission staff has prepared draft Fact Sheets entitled "Am I a Lobbyist?" and "Exceptions to the Lobbying Ordinance" (Attachment 3).

#### *D. Legal Analysis*

The Commission's General Counsel, Cristie McGuire, has conducted a thorough and ongoing legal analysis of the proposed amendments to the City's lobbying laws, and is confident that they would survive any legal challenges. In addition to the customary legal research and analysis that is typically performed by the Commission's General Counsel when the Commission proposes legislative reforms, Ms. McGuire prepared a "primer" (Attachment 5) on the constitutional principles involved in developing lobbying regulations. The Commission used this primer as a guideline throughout its deliberations on the proposed Lobbying Ordinance.

This primer addresses a variety of Court cases that explain how different types of government regulation are subject to different types of legal scrutiny. Laws that incidentally burden a First Amendment right, such as registration, disclosure, and gift provisions, are not direct limitations on the right to petition the government, and are therefore subject to a relatively low level of judicial scrutiny. In order to enact such laws, a government entity need only demonstrate that there is a reasonable or rational basis for the law. As explained in Ms. McGuire's memo, this burden is met if it can be shown that the law was reasonably calculated to achieve its goal. On the other hand, laws that prohibit or restrict constitutionally-protected activities (such as a ban on campaign contributions by lobbyists) are subject to a higher judicial standard known as "strict scrutiny."

In the opinion of the Commission's General Counsel, the proposed reforms do not substantially interfere with the ability of a lobbyist to exercise his or her First Amendment rights. Because there is a rational basis for each one of the provisions, and because each provision has been crafted to achieve a specific goal, Ms. McGuire is confident that the proposals do not impermissibly infringe on

constitutionally protected activities. Similarly, because the proposals do not include outright prohibitions or restrictions on First Amendment activities, Ms. McGuire does not believe they would be subject to a "strict scrutiny" standard of judicial review. Accordingly, it is Ms. McGuire's opinion that the City is not required to demonstrate a "compelling governmental interest" by documenting the actual or apparent corruption that would be corrected by each of the proposals. (It is important to note that Ms. McGuire's memo addresses a specific case in which the California Supreme Court found that a limit on gifts from lobbyists was not subject to strict scrutiny because it was not a direct limitation on the right to petition for redress of grievances.)

In light of the extensive legal analysis performed by the Commission staff, it is difficult to understand any basis for an assertion that there has been "no legal analysis" of the Commission's proposals. Although the Commission will of course defer to the Office of the City Attorney to ultimately determine whether the proposed ordinance is "legal," the Commission is confident that the City has sufficiently demonstrated the need for the proposed reforms, and that the proposed amendments have been drafted in a manner that is reasonably calculated to achieve the Commission's articulated goals.

#### *E. Empirical Evidence*

Even though the City is not required to provide evidence of corruption or the appearance of corruption to justify the proposed amendments, such evidence certainly exists in abundance. The Commission was, therefore, surprised to hear a lobbyist at the February 2007 Commission meeting express his view that there is no empirical evidence to support the changes recommended by the Commission. During the ensuing Commission discussion, one of the Ethics Commissioners pointed out that a court reviewing the proposed changes might indeed distinguish between "empirical" evidence and "anecdotal" evidence. The Ethics Commission has, therefore, compiled a body of empirical evidence that supports the need for the reforms proposed by the Commission. The following are examples of this empirical evidence, but are by no means exhaustive:

- Three former City councilmembers were indicted following a federal corruption probe that identified Lance Malone as a lobbyist who had obtained special access to the councilmembers through campaign fundraising. The councilmembers received a total of \$23,150 in "bundled" campaign contributions through Malone, and in the aggregate the former elected officials and their staffs had at total of 346 phone calls over two years with this lobbyist. Although appeals are still pending on this matter, the facts surrounding the indictments created an undeniable appearance of corruption between a lobbyist and City officials. (Attachment 12)
- In 2005, former U.S. Representative Duke Cunningham (whose district included parts of the City of San Diego) resigned from office and pled guilty to fraud and bribery charges stemming from his relationship with a lobbyist for a governmental contractor. (Attachment 13)
- *New York Times*, February 11, 2007 (Attachment 7). United States Senator Lindsey Graham was quoted as saying, "I don't see any problem with having events where private individuals who give you money can talk to you." The article also mentions an arrangement set up by Congressman Eric Cantor, who invited lobbyists to join him for a cup of coffee at the local Starbucks in exchange for a \$2,500 contribution.

000576

- *The Bankrollers: Lobbyists' Payments to the Lawmakers they Court, 1998 – 2006*, Public Citizen, May 2006 (Attachment 8). This report identifies the influence obtained by lobbyists through campaign contributions and campaign fundraising. The report details the access and influence of the top ten lobbyist-contributors on a federal level by identifying the elected officials who benefited from the contributions and documenting their subsequent actions (e.g. voting on specific matters, appropriations, earmarking, etc.) in support of the lobbyists' clients.

One example cited in the report involves Stewart Van Scoyoc, a federally registered lobbyist. According to the data compiled in this report, the top ten recipients of Van Scoyoc's campaign contributions serve on the House or Senate Appropriations Committees. In turn, these elected officials have rewarded Van Scoyoc's clients in various forms. For example, the Senate Appropriations Committee earmarked nearly \$150 million for the University of Alabama during the time that Senator Richard Shelby, a beneficiary of Van Scoyoc's campaign contributions, was Chair of the Committee (the University paid Van Scoyoc nearly \$1.5 million in lobbying fees).

Another example involving Van Scoyoc's fundraising and corresponding influence involves Reveal Imaging Technologies, a small Massachusetts start-up company that hired Van Scoyoc in June of 2003 and received a \$2.4 million grant from the Transportation Security Administration [TSA] three months later. In October of 2003, Van Scoyoc hosted a fundraiser for Representative Harold Rogers, the Chair of the Appropriations Homeland Security Subcommittee. This fundraiser netted contributions from Reveal executives totaling \$14,000. Over time, Rogers ultimately received \$122,111 from Reveal executives and associates and by March of 2006, Reveal had received \$28.1 million in orders from the TSA.

- *Measuring Corruption: Do Campaign Contributions and Lobbying Corrupt?* Gajan Retnasaba, Harvard Law School, 2005, Paper 737 (Attachment 9). This academic study examines the appearance of corruption with respect to underwriters of municipal bonds. As a result of the study, the author concludes that an appearance of corruption was created when politicians were able to reward underwriters who had benefited them (via campaign contributions) with lucrative underwriting contracts. The author further notes that when the Municipal Securities Rulemaking Board prohibited underwriters and their employees from conducting business in states where they had made campaign contributions in the past two years, the underwriters turned to lobbyists to make campaign contributions and obtain influence on their behalf.
- *Dallas Morning News*, July 7, 2005 (Attachment 10). This news story refers to court documents indicating that representatives of Westar Energy were told by their company's lobbyist, Richard Bornemann, that a \$25,000 contribution to Representative Tom DeLay would give them access to DeLay, who was the U.S. House majority leader at the time. As a result of the contribution, two Westar executives attended a golf outing with DeLay.
- *Washington Post*, June 10, 2003 (Attachment 11). This story details the efforts of lobbyist Richard Bornemann on behalf of Westar Energy. In particular, Bornemann reportedly attended at least seven Washington fundraisers and brought checks from Westar executives. Bornemann subsequently set up a meeting between Congressman Joe Barton and Westar executives, shortly after which Congressman Barton offered an amendment to exempt Westar

from a federal energy regulation. The story also mentions emails from Westar executives discussing their belief that their \$56,500 in campaign contributions should get Westar a "seat at the table" during the negotiations over the energy bill.

- *McConnell v. Federal Election Commission* 540 U.S. 93 (2003): In this landmark United States Supreme Court case, the Court considered a host of empirical evidence cited to justify the imposition of contribution limits on political parties, including the following:

Declaration of lobbyist Robert Rozen, partner, Ernst & Young: "You are doing a favor for somebody by making a large donation and they appreciate it. Ordinarily, people feel inclined to reciprocate favors. Do a bigger favor for someone – that is write a larger check – and they feel even more compelled to reciprocate. In my experience, overt words are rarely exchanged about contributions, but people do have understandings." *McConnell*, 540 U.S. 93, 147 (2003).

Declaration of former United States Senator Alan Simpson: "Too often, Members' first thought is not what is right or what they believe, but how it will affect fundraising. Who, after all, can seriously contend that a \$100,000 donation does not alter the way one thinks about--and quite possibly votes on--an issue? . . . When you don't pay the piper that finances your campaigns, you will never get any more money from that piper. Since money is the mother's milk of politics, you never want to be in that situation." *McConnell*, 540 U.S. at 149.

Declaration of former United States Senator Warren Rudman: "Special interests who give large amounts of soft money to political parties do in fact achieve their objectives. They do get special access. Sitting Senators and House Members have limited amounts of time, but they make time available in their schedules to meet with representatives of business and unions and wealthy individuals who gave large sums to their parties. These are not idle chit-chats about the philosophy of democracy. . . . Senators are pressed by their benefactors to introduce legislation, to amend legislation, to block legislation, and to vote on legislation in a certain way." *McConnell*, 540 U.S. at 151.

Declaration of Gerald Greenwald, United Airlines: "Business and labor leaders believe, based on their experience, that disappointed Members, and their party colleagues, may shun or disfavor them because they have not contributed. Equally, these leaders fear that if they refuse to contribute (enough), competing interests who do contribute generously will have an advantage in gaining access to and influencing key Congressional leaders on matters of importance to the company or union. . . . Though a soft money check might be made out to a political party, labor and business leaders know that those checks open the doors of the offices of individual and important Members of Congress and the Administration. . . . Labor and business leaders believe--based on experience and with good reason--that such access gives them an opportunity to shape and affect governmental decisions and that their ability to do so derives from the fact that they have given large sums of money to the parties. *McConnell*, 540 U.S. at 125, n13.

The *McConnell* court concluded that "it is not only plausible, but likely, that candidates would feel grateful for such donations and that donors would seek to exploit that gratitude." *McConnell*, 540 U.S. at 145.

In addition, the *McConnell* court determined that actual evidence of corruption is not required to impose contribution limits and thereby restrict activities protected by the First Amendment: "More importantly, plaintiffs conceive of corruption too narrowly. Our cases have firmly established that Congress' legitimate interest extends beyond preventing simple cash-for-votes corruption to curbing 'undue influence on an officeholder's judgment, and the appearance of such influence.' Many of the 'deeply disturbing examples' of corruption cited by this Court in *Buckley*, 424 U. S., at 27, to justify FECA's contribution limits were not episodes of vote buying, but evidence that various corporate interests had given substantial donations to gain access to high-level government officials. Even if that access did not secure actual influence, it certainly gave the "appearance of such influence." *McConnell*, 540 U.S. at 150 (citations omitted).

Although some of the above-cited evidence pertains to large campaign contributions and does not specifically concern lobbying, the evidence is clearly applicable to campaign fundraising, which is an activity that is common to both lobbying and campaign finance. In addition, because the City of San Diego imposes limits on contributions to candidates, fundraising is one of the main avenues through which someone may demonstrate direct support for a candidate.

It should also be noted that the United States Supreme Court has held that in establishing the basis for the imposition of legislative reforms, it is entirely appropriate for the City of San Diego to consider evidence of corruption and the appearance of corruption that exists in other jurisdictions. "The First Amendment does not require a city, before enacting . . . an ordinance, to conduct new studies or produce evidence independent of that already generated by other cities, so long as whatever evidence the city relies upon is reasonably believed to be relevant to the problem that the city addresses." *Nixon v. Shrink Missouri Government PAC*, 528 U.S. 377, 394 (2000), citing *Renton v. Playtime Theaters, Inc.*, 475 U.S. 41, 51-52 (1986).

#### *F. Public Perception*

During the course of the Commission's work on the lobbying laws over the past fifteen months, one lobbyist suggested that there is no evidence that the public is concerned about lobbying or that the public is in favor of the changes proposed by the Commission. This opinion was based on the fact that few members of the public attended the Commission meetings, which were more heavily attended by lobbyists. The Ethics Commission disagrees with this assessment and does not believe it is appropriate to equate low attendance with lack of interest. Research conducted by Commission staff indicates that the public is extremely concerned about corruption and the appearance of corruption when it comes to lobbyists and the access they have to elected officials, as evidenced by the following polls:

- ABC News Poll (January 5 – 8, 2006):

Sixty-seven percent of those polled would ban lobbyists from making campaign contributions to Congress.

Fifty-four percent of those polled would ban lobbyists from organizing campaign fundraisers for congressional candidates.

Ninety percent of those polled would ban lobbyists from giving Congress gifts, trips, or other things of value.

- Fox News / Opinion Dynamics Poll (January 10 – 11, 2006):

Sixty-five percent of those polled believe that most elected officials in Washington make policy decisions or take actions as a direct result of money they receive from major campaign contributors.

- CBS / New York Times Poll (January 20 – 25, 2006):

Seventy-seven percent of people polled think that recent reports of lobbyists bribing members of Congress is “the way things work” in Congress.

- Pew Research Center (February 1 – 5, 2006):

Eighty-one percent of people polled think recent reports of lobbyists bribing members of Congress reflect behavior that is “common” in Congress.

- Pew Research Center (April 7 – 16, 2006):

Forty-six percent of people polled are “very concerned” about the influence of lobbyists and special interests.

Twenty-nine percent of people polled are “somewhat concerned” about the influence of lobbyists and special interests.

Seventy-six percent of people polled are in favor of stricter limits on gifts from lobbyists.

The polling data is attached for your review (Attachment 14).

#### *G. Conclusion*

Throughout the past fifteen months of deliberations, the Commission has received extremely valuable input from lobbyists and members of the public regarding a variety of proposals under consideration. As reflected in letters to the Commission (Attachment 15) and minutes of the Commission meetings (available at [www.sandiego.gov/ethics](http://www.sandiego.gov/ethics)), each recommendation was seriously considered and most were incorporated into the Commission’s proposals. The input the Commission received was instrumental in terms of preparing a draft ordinance that is straightforward and comprehensible for the regulated community, and yet also addresses important public policy considerations.

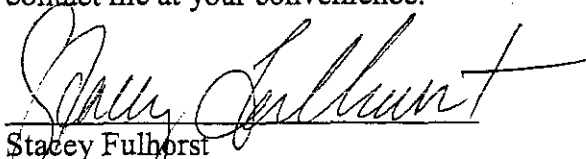
As explained in detail above, the Commission does not believe that there is any legitimate basis to assert that the Commission’s proposed reforms are “too complicated,” or are a “solution in search of a problem.” Instead, if adopted, these reforms will dramatically improve what is currently a largely ineffective ordinance. They will ensure that people who are compensated to influence municipal decisions are required to register as lobbyists, and they will further ensure that the Ethics Commission can effectively enforce the law when such individuals fail to register.

February 21, 2007

Page 1000580

The proposed reforms will also require lobbyists to disclose more information than is presently required, which will in turn create more transparency and combat the appearance of corruption that surrounds lobbying and related activities. Although some lobbyists may object to the additional disclosure requirements, the Commission believes that this increased level of transparency will be critical to assuring the public that there is nothing secretive or sinister about the lobbying activities that take place in the City of San Diego every day. As registered lobbyist Michael McDade told the *Union-Tribune* in October of 2005: "People who are doing a legitimate job of presenting information to government officials should not have to worry about whether the public knows if they've talked to them."

For your convenience, we have provided "clean" and "strike-out" versions reflecting the proposed changes to the Lobbying Ordinance (Attachments 1 and 2). Note that we have added text boxes in the left margin of the "clean" version to identify the substantive changes made since the October 25, 2006, Rules Committee meeting. We look forward to discussing these proposed changes with you at the Rules Committee meeting on March 7, 2007. If you have any questions in the meantime, please contact me at your convenience.



Stacey Fulhorst  
Executive Director

Attachments

cc: Catherine Bradley, Chief Deputy City Attorney  
Kris Michel, Deputy Chief Community & Legislative Services

RECEIVED  
CITY CLERK'S OFFICE  
SAN DIEGO, CA

07 JUL 10 AM 10:06

RECEIVED

## INDEX TO ATTACHMENTS

**Ethics Commission Executive Director Memorandum: Proposed Amendments to the Municipal Lobbying Ordinance (February 21, 2007)**

1. Draft Revisions to Lobbying Ordinance (clean version, dated 2/15/07)
2. Draft Revisions to Lobbying Ordinance (strike-out version, dated 2/15/07)
3. Draft Fact Sheets entitled "Am I a Lobbyist?" and "Exceptions to the Lobbying Ordinance"
4. Comparison chart reflecting lobbying laws in other jurisdictions
5. Memorandum from General Counsel Cristie C. McGuire dated June 8, 2006
6. Kelly Thornton, "A Matter of Influence," *Union Tribune*, October 16, 2005
7. David Kirkpatrick, "Congress Finds Ways to Avoid Lobbyist Limits," *New York Times*, February 11, 2007
8. *The Bankrollers: Lobbyists' Payments to the Lawmakers they Court, 1998 – 2006*, Public Citizen, May 2006
9. *Measuring Corruption: Do Campaign Contributions and Lobbying Corrupt?* Gajan Retnasaba, Harvard Law School, 2005, Paper 737
10. Wayne Slater, "Donation Brought Access to DeLay," *Dallas Morning News*, July 7, 2005
11. Juliet Eilperin, "Westar Lobbyist's Role Detailed," *Washington Post*, June 10, 2003
12. Kelly Thornton, "More Wiretaps Played for Jurors," *Union-Tribune*, May 27, 2005; Kelly Thornton, "Prosecution Tells Jurors it was Bribery," *Union-Tribune*, July 7, 2005
13. Plea Agreement in *United States of America v. Randall Harold Cunningham*, United States District Court, case no. 05cr2137-LAB, filed November 28, 2005
14. Poll results – ABC News/Washington Post (Jan. 2006); Fox News (Jan. 2006); CBS News/New York Times (Jan 2006); Pew Research Center for the People and the Press (Feb. 2006); Pew Research Center for the People and the Press (Apr. 2006)
15. Written submissions received by the Ethics Commission from November 2005 through February 2007





## LOBBYING ORDINANCE REVIEW

## – DRAFT REVISIONS –

(Proposed Effective Date: January 1, 2008)

## Article 7: Elections, Campaign Finance and Lobbying

## Division 40: Municipal Lobbying

## §27.4001 Purpose and Intent

It is the purpose and intent of the City Council of the City of San Diego in enacting this division to: ensure that the citizens of the City of San Diego have access to information about persons who attempt to influence decisions of City government through the use of paid lobbyists; establish clear and unambiguous registration and disclosure requirements for lobbyists in order to provide the public with relevant information regarding the financing of lobbyists and the full range of lobbying activities; prohibit registered lobbyists from exerting improper influence over City Officials or from placing City Officials under personal obligation to lobbyists or their clients; promote transparency concerning attempts to influence municipal decisions; avoid corruption and the appearance of corruption in the City's decision-making processes; regulate lobbying activities in a manner that does not discourage or prohibit the exercise of constitutional rights; reinforce public trust in the integrity of local government; and ensure that this division is vigorously enforced.

## §27.4002 Definitions

All defined terms in this division appear in italics. Unless the context otherwise indicates, the defined terms have the meanings set forth below.

*Activity Expense* means any payment made to, or on behalf of, any *City Official* or any member of a *City Official's immediate family*, by a *lobbyist*, *lobbying firm*, or *organization lobbyist*. *Activity expenses* include *gifts*, meals, consulting fees, salaries, and any other form of *compensation* to a *City Official* or a *City Official's immediate family*, but do not include campaign contributions.

*Agent* means a *person* who acts on behalf of any other *person*. *Agent* includes a *person* who acts on behalf of a *lobbyist*.

*Candidate* means any individual who is holding, or seeking to hold, elective *City* office.

*City* means the City of San Diego or any of its organizational subdivisions, agencies, offices, or boards.

000584

*City Board* includes the boards of directors of all *City* agencies, and any board, commission, committee, or task force of the *City* established by action of the *City* Council under authority of the *City* Charter, Municipal Code, or Council resolution, whose members are required to file a statement of economic interests pursuant to the California Political Reform Act of 1974, as amended.

"City  
Official"  
limited to  
only the  
positions  
listed

*City Official* means any of the following officers or employees of the *City*, which includes all *City* agencies: elected officeholder; Council staff member; Council Committee Consultant; Assistant City Attorney; Deputy City Attorney; General Counsel; Chief; Assistant Chief; Deputy Chief; Assistant Deputy Chief; City Manager; Assistant City Manager; Deputy City Manager; Treasurer; Auditor and Comptroller; Independent Budget Analyst; City Clerk; Labor Relations Manager; Retirement Administrator; Director; Assistant Director; Deputy Director; Assistant Deputy Director; Chief Executive Officer; Chief Operating Officer; Chief Financial Officer; President; and Vice-President. *City Official* also means any member of a *City Board*.

*Client* means any *person* who provides *compensation* to a *lobbying firm* for the purpose of *influencing a municipal decision*, and any *person* on whose behalf *lobbying activities* are performed by a *lobbying firm*.

contingency  
language  
added

(a) *Client* includes any *person* that retains a *lobbying firm* to engage in *lobbying activities* pursuant to a contingency agreement.

clarifies  
when a  
member of  
a coalition is  
a "client"

(b) If a coalition or membership organization is a *client*, a member of that coalition or organization is not also a *client* unless that member paid, or agreed to pay, at least \$1,000 to the *lobbying firm* for *lobbying activities* performed on behalf of the coalition or organization with regard to a specific *municipal decision*. For purposes of this subsection, if a member is an individual, payments by that individual's *immediate family* are attributable to that individual member.

*Compensation* means any economic consideration for services rendered or to be rendered. *Compensation* does not include reimbursement for *travel expenses*.

*Contact* means the act of engaging in a *direct communication* with a *City Official* for the purpose of *influencing a municipal decision*. For purposes of this definition:

- (a) each discussion with a *City Official* regarding a different *municipal decision* is considered a separate *contact*;
- (b) each discussion regarding a *municipal decision* with a *City Official* and members of that official's immediate staff, or with multiple immediate staff members of the same *City Official*, is considered a separate *contact*;
- (c) each substantially similar communication, regardless of whether it is made by letter, e-mail, or facsimile, pertaining to one or more *municipal decisions* to one or more *City Officials* is considered a separate *contact* for each *municipal decision*.

*Direct communication* means:

- (a) talking to (either by telephone or in person); or

- (b) corresponding with (either in writing or by electronic transmission or facsimile machine).

*Enforcement Authority* means the City of San Diego Ethics Commission. Nothing in this article limits the authority of the City Attorney, any law enforcement agency, or any prosecuting attorney to enforce the provisions of this article under any circumstances where the City Attorney, law enforcement agency, or prosecuting attorney otherwise has lawful authority to do so.

changed  
from 90  
days to a  
calendar  
quarter

*Expenditure lobbyist* means any *person* who makes expenditures for public relations, media relations, advertising, public outreach, research, investigation, reports, analyses, studies, or similar activities designed to influence one or more *municipal decisions*, to the extent that such *payments* total \$5,000 or more within a calendar quarter. An expenditure is made on the date a *payment* is made or on the date consideration, if any, is received by the *expenditure lobbyist*, whichever is earlier. Expenditures for *lobbying activities* reported by a *lobbying firm* or *organization lobbyist* on a quarterly disclosure report shall not be considered for purposes of calculating the \$5,000 threshold.

*Fundraising activity* means soliciting, or directing others to solicit, campaign contributions from one or more contributors, either personally or by hosting or sponsoring a fundraising event, and either (a) personally delivering \$1,000 or more in contributions to a *candidate* or to a *candidate's* controlled committee, or (b) identifying oneself to a *candidate* or a *candidate's* controlled committee as having any degree of responsibility for \$1,000 or more in contributions received as a result of that solicitation.

*Gift* means any *payment* that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. Any *person*, other than a defendant in a criminal action, who claims that a *payment* is not a *gift* by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value. *Gifts* are subject to the exceptions set forth in Municipal Code section 27.3525.

*Immediate family* means an individual's spouse or registered domestic partner, and any dependent children.

*Influencing a municipal decision* means affecting or attempting to affect any action by a *City Official* on one or more *municipal decisions* by any method, including promoting, supporting, opposing, or seeking to modify or delay such action. *Influencing a municipal decision* also includes providing information, statistics, analysis, or studies to a *City Official*.

*Lobbying* means *direct communication* with a *City Official* for the purpose of *influencing a municipal decision* on behalf of any other *person*.

identifies  
the activities  
that fall  
under scope  
of ordinance

*Lobbying activities* means the following and similar activities that are related to an attempt to *influence a municipal decision*: (a) *lobbying*; (b) monitoring *municipal decisions*; (c) preparing testimony and presentations; (d) engaging in research, investigation, and fact-gathering; (e) attending hearings; (f) communicating with clients; and (g) waiting to meet with *City Officials*.

*Lobbying entity* means any *lobbying firm*, *organization lobbyist*, or *expenditure lobbyist*.

*Lobbying firm* means any entity that receives or becomes entitled to receive any amount of monetary or in-kind *compensation* to engage in *lobbying activities* on behalf of any other *person*, and that has at least one *direct communication* with a *City Official* for the purpose of *influencing a municipal decision*. A *lobbying firm* includes any entity that engages in *lobbying activities* on behalf of another *person* pursuant to a contingency fee agreement.

*Lobbyist* means any individual who engages in *lobbying activities* on behalf of a *client* or an *organization lobbyist*.

*Ministerial action* means any action that does not require a *City Official* to exercise discretion concerning any outcome or course of action. A *ministerial action* includes, but is not limited to, decisions on private land development made pursuant to Process 1 as described in Chapter 11 of the Municipal Code.

*Municipal decision* includes:

- (a) the drafting, introduction, consideration, reconsideration, adoption, defeat, or repeal of any ordinance or resolution; and
- (b) the amendment of any ordinance or resolution; and
- (c) a report by a *City Official* to the *City Council* or a *City Council Committee*; and
- (d) contracts; and
- (e) quasi-judicial decisions, including:
  - (1) any decision on a land development permit, map or other matter decided pursuant to Process 2 through 5 as described in Chapter 11 of this Municipal Code; and
  - (2) any grant of, denial of, modification to, or revocation of a permit or license under Chapter 1 through 10 of this Municipal Code; and
  - (3) any declaration of debarment as described in Chapter 2, Article 2, Division 8, of this Municipal Code; and
- (f) any other decision of the *City Council* or a *City Board*.

*Organization lobbyist* means any business or organization, including any non-profit entity, that provides *compensation* to one or more employees who have a total of 10 or more separate *contacts* with one or more *City Officials* within 60 consecutive calendar days for purposes of *lobbying* on behalf of the business or organization. An employee of any parent or subsidiary of the business or organization is considered an employee of that entity. "Employees" of an *organization lobbyist* include the owners, officers, and employees of the business or organization.

000587

*Payment* means a payment, distribution, transfer, loan, advance, deposit, *gift* or other rendering of money, property, services, or anything else of value, whether tangible or intangible.

*Person* means any individual, business entity, trust, corporation, association, committee, or any other organization or group of *persons* acting in concert.

*Public hearing* means any meeting as defined by the Ralph M. Brown Act where a public record is kept of who spoke and who was represented by a *lobbyist* testifying at that hearing.

*Public official* means an elected or appointed officer or employee or officially designated representative, whether compensated or not, of the United States or any of its agencies; the State of California; the *City*; any political subdivision of the State, including counties and districts; or any public corporation, agency, or commission.

*Travel expenses* means reasonable expenses for transportation plus a reasonable sum for food and lodging.

#### §27.4004

#### Exceptions

The following *persons* and activities are exempt from the requirements of this division:

- (a) a *public official* acting in his or her official capacity and any government employee acting within the scope of his or her employment;
- (b) any newspaper or other regularly published periodical, radio station, or television station (including any individual who owns, publishes, or is employed by any such newspaper, periodical, radio station, or television station) that in the ordinary course of business publishes news items, editorials, or other comments or paid advertisements that directly or indirectly urge action on a *municipal decision*, if such newspaper, periodical, radio station, television station, or individual engages in no other activities to *influence a municipal decision*;
- (c) any *person* whose sole activity includes one or more of the following, unless the activity involves *direct communication* with a member of the *City Council* or a member of the *City Council's* immediate staff:
  - (1) to submit a bid on a competitively bid contract;
  - (2) to submit a written response to a request for proposals or qualifications;
  - (3) to participate in an oral interview for a request for proposals or qualifications; or,
  - (4) to negotiate the terms of a contract or agreement with the *City*, once the *City* has authorized either by action of the *City Council*, *City Manager*, or voters, entering an agreement with that *person* whether that *person* has been selected pursuant to a bid, request for proposals or qualifications, or by other means of selection recognized by law.

000588

(5) to communicate in connection with the administration of an existing contract between the *person* and the *City*.

- (d) any request for advice regarding, or for an interpretation of, laws, regulations, *City* approvals, or policies;
- (e) any communication by an attorney with regard to his or her representation of a party or potential party to pending or actual litigation, or to a pending or actual administrative enforcement proceeding, brought by or against the *City*, or *City* agent, officer, or employee;
- (f) any communication concerning a *ministerial action*;
- (g) any communication concerning the establishment, amendment, administration, implementation, or interpretation of a collective bargaining agreement or memorandum of understanding between the *City* and a recognized employee organization, or concerning a proceeding before the Civil Service Commission;
- (h) any communication concerning management decisions regarding the working conditions of represented employees that clearly relate to the terms of collective bargaining agreements or memoranda of understanding pursuant to (g) above;
- (i) solely responding to questions from any *City Official*, or providing oral or written information in response to a subpoena or as otherwise compelled by law;
- (j) solely appearing as a speaker at, or providing written statements that become part of the record of, a *public hearing*;
- (k) any direct response to an enforcement proceeding with the *City*.
- (l) the provision of purely technical data or analysis to a *City Official* by an expert, so long as the expert does not otherwise engage in *direct communication* for the purpose of *influencing a municipal decision*. This subsection is intended to be interpreted in a manner consistent with title 2, section 18239(d)(3)(A) of the California Code of Regulations.
- (m) the publishing of any information on an Internet website that is accessible to the general public.

**§27.4006 Activity Expense on Behalf of Client**

An *activity expense* shall be considered to be made on behalf of a *client* if the *client* requests, authorizes, or reimburses the expense.

**§27.4007 Registration Required**

- (a) Every *lobbying firm* and *organization lobbyist* is required to register with the *City Clerk* no later than ten calendar days after qualifying as a *lobbying firm* or *organization lobbyist*.
- (b) *Lobbying firms* and *organization lobbyists* shall file their registration forms with the *City Clerk*, using forms provided by the *City Clerk*.

**000589** (c) Nothing in this division precludes an entity from registering as a *lobbying firm* or *organization lobbyist* prior to qualifying as such.

- (d) An entity that registers as a *lobbying firm* or *organization lobbyist* retains that status through January 5 of the following calendar year unless and until it terminates that status in accordance with section 27.4022. An entity that continues to qualify as a *lobbying firm* or *organization lobbyist* on January 5 shall renew that registration on or before January 15 of each year.

**§27.4009 Contents of Registration Form**

- (a) Every *lobbying firm* shall file with the City Clerk a registration form that contains the following information:

(1) the *lobbying firm's* name, address, and telephone number.

(2) the name of each individual employed by the *lobbying firm*:

(A) who has engaged in *lobbying* the City within the previous 30 calendar days, or

(B) who the *lobbying firm* reasonably anticipates will engage in *lobbying* the City in the future.

changed from  
4 years to 2  
years; added  
'grandfather'  
clause

- (3) a listing of all owners, officers, and *lobbyists* of the *lobbying firm* who engaged in *fundraising activities* for a current elected *City Official* during the two year period preceding the filing date, along with the name of each applicable *City Official*. Notwithstanding the requirements of this subsection, *lobbying firms* have no obligation to report *fundraising activities* that took place prior to January 1, 2007.

adds  
disclosure  
requirement  
for paid  
campaign  
services

- (4) a listing of all owners, officers, and *lobbyists* of the *lobbying firm* who personally provided compensated campaign-related services to a current elected *City Official* during the two year period preceding the filing date, along with the name of each applicable *City Official*. Notwithstanding the requirements of this subsection, *lobbying firms* have no obligation to report campaign-related services that were rendered prior to January 1, 2007.

adds  
disclosure  
requirement  
for City  
contract  
services

- (5) a listing of all owners, officers, and *lobbyists* of the *lobbying firm* who personally provided compensated services under a contract with the City during the two year period preceding the filing date, along with the name of the City department, agency, or *board* for which the services were provided. Notwithstanding the requirements of this subsection, *lobbying firms* have no obligation to report compensated services provided prior to January 1, 2007.

- (6) for each *client* for whom the *lobbying firm* engages in *lobbying activities*:

adds disclosure  
requirement for  
coalition members that  
qualify as "clients"

- (A) the *client's* name, business or mailing address, and telephone number; in addition, if the *client* is a coalition or membership organization, include

the name, business or mailing address, and telephone number of each member who also qualifies as a *client* under section 27.4002.

- (B) a specific description of each *client* in sufficient detail to inform the public of the nature and purpose of the *client's* business; and,
  - (C) the specific *municipal decision(s)* for which the *lobbying firm* was retained to represent the *client*, or a description of the type(s) of *municipal decision(s)* for which the *lobbying firm* was retained to represent the *client*, and the outcome(s) sought by the *client*;
- (7) statements by a duly authorized owner or officer of the *lobbying firm* that he or she:
- (A) reviewed and understands the requirements of Division 40 governing municipal lobbying; and,
  - (B) reviewed the contents of the registration form and verified under penalty of perjury that based on personal knowledge or on information and belief, that he or she believes such contents to be true, correct, and complete.
- (8) the printed name, title, and original signature of the individual making the statements required by subsection (a)(7).
- (9) any other information required by the *Enforcement Authority* or the *City Clerk* consistent with the purposes and provisions of this division.
- (b) Every *organization lobbyist* shall file with the *City Clerk* a registration form that contains the following information:
- (1) the *organization lobbyist's* name, address, and telephone number.
  - (2) a specific description of the *organization lobbyist* in sufficient detail to inform the public of the nature and purpose of its business.
  - (3) the name of each owner, officer, and employee of the *organization lobbyist* who is authorized to *lobby City Officials* on behalf of the *organization lobbyist*.
  - (4) the total number of *lobbying contacts* with *City Officials* made on behalf of the *organization lobbyist* by the *organization lobbyist's* owners, officers, or employees during the 60 calendar days preceding the filing date.
  - (5) a description of each *municipal decision* the *organization lobbyist* has sought to influence during the 60 calendar days preceding the filing date; and the outcome sought by the *organization lobbyist*.
  - (6) a listing of all owners, compensated officers, and *lobbyists* of the *organization lobbyist* who engaged in *fundraising activities* for a current elected *City Official* during the two year period preceding the filing date, along with the

changed from  
4 years to 2  
years; added  
'grandfather'  
clause



name of each applicable *City Official*. Notwithstanding the requirements of this subsection, *organization lobbyists* have no obligation to report *fundraising activities* that took place prior to January 1, 2007.

adds  
disclosure  
requirement  
for paid  
campaign  
services

- (7) a listing of all owners, compensated officers, and *lobbyists* of the *organization lobbyist* who personally provided compensated campaign-related services to a current elected *City Official* during the two year period preceding the filing date, along with the name of each applicable *City Official*. Notwithstanding the requirements of this subsection, *organization lobbyists* have no obligation to report campaign-related services that were rendered prior to January 1, 2007.

adds  
disclosure  
requirement  
for City  
contract  
services

- (8) a listing of all owners, compensated officers, and *lobbyists* of the *organization lobbyist* who personally provided compensated services under a contract with the City during the two year period preceding the filing date, along with the name of the *City* department, agency, or *board* for which the services were provided. Notwithstanding the requirements of this subsection, *organization lobbyists* have no obligation to report compensated services provided prior to January 1, 2007.

- (9) statements by a duly authorized owner or officer of the *organization lobbyist* that he or she:

- (A) reviewed and understands the requirements of Division 40 governing municipal lobbying; and,
- (B) reviewed the contents of the registration form and verified under penalty of perjury that based on personal knowledge or on information and belief, that he or she believes such contents to be true, correct, and complete.

- (10) the printed name, title, and original signature of the individual making the statements required by subsection (b)(9).

- (11) any other information required by the *Enforcement Authority* or the *City Clerk* consistent with the purposes and provisions of this division.

## §27.4010

### Registration Fees

- (a) At the time a *lobbying firm* registers pursuant to section 27.4007, the *lobbying firm* shall pay an annual registration fee based on the number of *lobbyists* identified on its registration form, plus an annual *client* registration fee for each *client* identified on the registration form.
- (1) A *lobbying firm* that initially qualifies to register during the last quarter of a calendar year (October through December) pursuant to section 27.4007 shall pay prorated registration fees.
- (2) When a *lobbying firm* adds a *lobbyist* subsequent to the *lobbying firm's* initial registration, the *lobbying firm* shall pay an additional *lobbyist* registration fee when filing its amended registration form as required by section 27.4012.

000592

- (3) When a *lobbying firm* acquires a *client* subsequent to the *lobbying firm's* initial registration, the *lobbying firm* shall pay an additional *client* registration fee when filing its amended registration form as required by section 27.4012.
- (4) For the purpose of determining *client* registration fees, a coalition or membership organization shall be considered a single *client*, even if one or more of its members also qualify as *clients* under section 27.4002.
- (5) Registration fees may be paid or reimbursed by a *client*.
- (b) At the time an *organization lobbyist* registers pursuant to section 27.4007, the *organization lobbyist* shall pay an annual *organization lobbyist* registration fee.
  - (1) An *organization lobbyist* that initially qualifies to register during the last quarter of a calendar year (October through December) pursuant to section 27.4007 shall pay a prorated registration fee.
  - (2) An *organization lobbyist* shall pay a single registration fee regardless of the number of its owners, officers, and employees who engage in *lobbying activities*.
- (c) All registration fees shall be set by the City Council based upon the recommendation of the City Clerk. The City Clerk shall from time to time recommend fee amounts to the City Council that reflect, but do not exceed, the City's costs of administering the filing requirements set forth in this division. A copy of the fee schedule shall be filed in the rate book of fees on file in the office of the City Clerk.

**§27.4012 Amendments to Registration Form**

Within ten calendar days of any change in the information required on their registration forms, *lobbying firms* and *organization lobbyists* shall file amendments to their registration forms, disclosing the change in information.

**§27.4015 Quarterly Disclosure Report Required**

- (a) *Lobbying firms* and *organization lobbyists* shall file quarterly disclosure reports for every calendar quarter during which they retain their status as a *lobbying firm* or *organization lobbyist*.
- (b) *Expenditure lobbyists* shall file quarterly disclosure reports for every calendar quarter in which they qualify as *expenditure lobbyists*. An entity has no filing obligations as an *expenditure lobbyist* for any calendar quarter in which it does not meet the definition of an *expenditure lobbyist*.
- (c) Each *lobbying entity* shall file its quarterly disclosure report with the City Clerk, using forms provided by the City Clerk.

§27.4016 Filing Deadline for Quarterly Disclosure Report

**000593** *Lobbying entities* shall file quarterly disclosure reports no later than the last day of the months of April, July, October, and January. *Lobbying entities* shall disclose the information required by section 27.4017 for the calendar quarter immediately prior to the month in which the report is required to be filed.

§27.4017 Contents of Quarterly Disclosure Report

(a) Each *lobbying firm's* quarterly disclosure report shall contain the following information:

(1) the *lobbying firm's* name, address, and telephone number.

does not  
require  
identification  
of "coalition"  
clients

(2) the name, business or mailing address, and telephone number of each *client* represented by the *lobbying firm* during the reporting period (except that if the *client* is a coalition or membership organization, such identifying information need not be disclosed for any of its members who also qualify as *clients* under section 27.4002), along with the following information for that *client*:

(A) the specific *municipal decision(s)* for which the *lobbying firm* represented the *client* during the reporting period, and the outcome(s) sought by the *client*;

(B) the name and department of each *City Official* who was subject to *lobbying* by the *lobbying firm* with regard to that specific *municipal decision*;

(C) the name of each *lobbyist* employed by the *lobbying firm* who engaged in *lobbying activities* with regard to that specific *municipal decision*; and,

clarifies scope  
of reportable  
compensation

(D) the total *compensation* that the *lobbying firm* became entitled to receive for engaging in *lobbying activities* during the reporting period on behalf of that *client*. Such *compensation* shall be disclosed to the nearest thousand dollars.

(3) an itemization of *activity expenses* that includes the following:

\$50 aggregate  
threshold  
removed  
because of  
new gift limits

(A) the date, amount, and description of any *activity expense* that exceeds \$10 on any single occasion made by the *lobbying firm* or any of its *lobbyists* during the reporting period for the benefit of a single *City Official* or any member of a *City Official's immediate family*;

(B) the name, title, and department of the *City Official* who benefited, or whose *immediate family* benefited, from the itemized *activity expense*;

(C) the name of each *lobbyist* who participated in making the *activity expense*;

(D) the name and address of the payee of each itemized *activity expense*; and,

000534

(E) the name of the *client*, if any, on whose behalf each itemized *activity expense* was made.

(4) an itemization of any campaign contributions of \$100 or more made by owners, officers, or *lobbyists* of the *lobbying firm* to a *candidate* or a *candidate*-controlled committee during the reporting period, including the date and amount of the contribution and the name of the *candidate* supported.

(5) an itemization of any campaign contributions of \$100 or more made by the *lobbying firm* or any of its owners, officers, or *lobbyists* during the reporting period to a *candidate*-controlled committee that is organized to support or oppose a ballot measure, including the name of the *candidate*, the date and amount of the contribution, and the name of the ballot measure committee.

(6) for each instance of *fundraising activity* by an owner, officer, or *lobbyist* of the *lobbying firm* during the reporting period:

(A) the name of the owner, officer, or *lobbyist* who engaged in the *fundraising activity*;

(B) the name of the elected *City Official* or *candidate* benefiting from the *fundraising activity*;

(C) a description of the ballot measure, if any;

(D) the date(s) of the *fundraising activity*;

(E) a brief description of the *fundraising activity*; and

reworded to  
mirror  
definition of  
'fundraising  
activity'

(F) the approximate amount of (i) all contributions personally delivered by the owner, officer, or *lobbyist* to a *candidate* or a *candidate's* controlled committee; and (ii) all contributions for which the owner, officer, or *lobbyist* has identified himself or herself to a *candidate* or a *candidate's* controlled committee as having some degree of responsibility for raising.

(7) for each owner, officer, and *lobbyist* of the *lobbying firm* who personally provided compensated campaign-related services to a *candidate* or a *candidate*-controlled committee during the reporting period:

adds  
disclosure  
requirement  
for paid  
campaign  
services

(A) the name of the owner, officer, or *lobbyist* who provided the services;

(B) the *candidate's* name, and the office sought by that *candidate*;

(C) the name of the *candidate*-controlled ballot measure committee and a description of the ballot measure, if applicable;

(D) the approximate amount of *compensation* earned during the reporting period for the services provided to the *candidate* or *candidate*-controlled committee; and,

(E) a description of the services provided.

- (8) for each owner, officer, and *lobbyist* of the *lobbying firm* who personally provided compensated services under a contract with the *City* during the reporting period:

adds  
disclosure  
requirement  
for City  
contract  
services

- (A) the name of the owner, officer, or *lobbyist* who provided the services;
- (B) the name of the department, agency, or *board* for which the services were provided;
- (C) the approximate amount of *compensation* earned during the reporting period for the services provided under the contract; and,

(D) a description of the services provided.

- (9) a statement by a duly authorized owner or officer of the *lobbying firm* that he or she has reviewed the contents of the quarterly disclosure report and verified under penalty of perjury that based on personal knowledge or on information and belief, that he or she believes such contents to be true, correct, and complete.

- (10) the printed name, title, and original signature of the individual making the statement required by subsection (a)(9).

- (11) any other information required by the *Enforcement Authority* or the *City Clerk* consistent with the purposes and provisions of this division.

- (b) Each *organization lobbyist's* quarterly disclosure report shall contain the following information:

- (1) the *organization lobbyist's* full name, address, and telephone number.

- (2) for each *municipal decision(s)* for which the *organization lobbyist* engaged in *lobbying activities* during the reporting period:

- (A) a description of the specific *municipal decision*, and the outcome sought by the *organization lobbyist*;

- (B) the name and department of each *City Official* who was subject to *lobbying* by the *organization lobbyist* during the reporting period with regard to that specific *municipal decision*; and,

- (C) the name of each owner, officer, or employee of the *organization lobbyist* who engaged in *lobbying activities* during the reporting period with regard to that specific *municipal decision*.

- (D) the total number of *lobbying contacts* with *City Officials* made on behalf of the *organization lobbyist* by the *organization lobbyist's* owners,

officers, or employees with regard to that specific *municipal decision* during the reporting period.

- (3) an itemization of *activity expenses* that includes the following:
  - (A) the date, amount, and description of any *activity expense* that exceeds \$10 on any single occasion made by the *organization lobbyist* or any of its *lobbyists* during the reporting period for the benefit of a single *City Official* or any member of a *City Official's immediate family*;
  - (B) the name, title, and department of the *City Official* who benefited, or whose *immediate family* benefited, from the itemized *activity expense*;
  - (C) the name of each *lobbyist* who participated in making the *activity expense*; and,
  - (D) the name and address of the payee of each itemized *activity expense*.
- (4) an itemization of any campaign contributions of \$100 or more made by owners, compensated officers, or *lobbyists* of the *organization lobbyist* to a *candidate* or a *candidate-controlled* committee during the reporting period, including the date and amount of the contribution and the name of the *candidate* supported.
- (5) an itemization of any campaign contributions of \$100 or more made by the *organization lobbyist* or any of its owners, compensated officers, or *lobbyists* during the reporting period to a *candidate-controlled* committee that is organized to support or oppose a ballot measure, including the date and amount of the contribution and the name of the ballot measure committee.
- (6) for each instance of *fundraising activity* by an owner, compensated officer, or *lobbyist* of the *organization lobbyist* during the reporting period:
  - (A) the name of the owner, officer, or *lobbyist* who engaged in the *fundraising activity*;
  - (B) the name of the elected *City Official* or *candidate* benefiting from the *fundraising activity*;
  - (C) a description of the ballot measure, if any;
  - (D) the date(s) of the *fundraising activity*;
  - (E) a brief description of the *fundraising activity*; and
  - (F) the approximate amount of (i) all contributions personally delivered by the owner, officer, or *lobbyist* to a *candidate* or a *candidate's* controlled committee; and (ii) all contributions for which the owner, officer, or *lobbyist* has identified himself or herself to a *candidate* or a *candidate's* controlled committee as having some degree of responsibility for raising.

reworded to  
mirror  
definition of  
'fundraising  
activity'

adds  
disclosure  
requirement  
for paid  
campaign  
services

- (7) for each owner, compensated officer, and *lobbyist* of the *organization lobbyist* who personally provided compensated campaign-related services to a *candidate* or a *candidate*-controlled committee during the reporting period:
- (A) the name of the owner, officer, or *lobbyist* who provided the services;
  - (B) the *candidate's* name, and the office sought by that *candidate*;
  - (C) the name of the *candidate*-controlled ballot measure committee and a description of the ballot measure, if applicable;
  - (D) the approximate amount of *compensation* earned during the reporting period for the services provided to the *candidate* or *candidate*-controlled committee; and,
  - (E) a description of the services provided.

adds  
disclosure  
requirement  
for City  
contract  
services

- (8) for each owner, compensated officer, and *lobbyist* of the *organization lobbyist* who personally provided compensated services under a contract with the *City* during the reporting period:
- (A) the name of the owner, officer, or *lobbyist* who provided the services;
  - (B) the name of the department, agency, or *board* for which the services were provided;
  - (C) the approximate amount of *compensation* earned during the reporting period for the services provided under the contract; and,
  - (D) a description of the services provided.
- (9) a statement by a duly authorized owner or officer of the *organization lobbyist* that he or she has reviewed the contents of the quarterly disclosure report and verified under penalty of perjury that based on personal knowledge or on information and belief, that he or she believes such contents to be true, correct, and complete.
- (10) the printed name, title, and original signature of the individual making the statement required by subsection (b)(9).
- (11) any other information required by the *Enforcement Authority* or the *City Clerk* consistent with the purposes and provisions of this division.

- (c) An *expenditure lobbyist's* quarterly disclosure report shall contain the following information:

- (1) The name, address, and telephone number of the *expenditure lobbyist*.
- (2) The name, title, address, and telephone number of the individual responsible for preparing the report.

000598

- (3) A description of each *municipal decision* that the *expenditure lobbyist* attempted to influence during the reporting period, and for each such *municipal decision*:

reworded to  
clarify when  
expenditure is  
made

- (A) The total expenditures the *expenditure lobbyist* made during the reporting period for the purpose of attempting to influence that *municipal decision*. An expenditure is made on the date a *payment* is made or on the date consideration, if any, is received by the *expenditure lobbyist*, whichever is earlier. An *expenditure lobbyist* need not disclose expenditures for *lobbying activities* reported by a *lobbying firm* or *organization lobbyist* on a quarterly disclosure report.
- (B) The name, address, telephone number, and amount of *payment* for each *person* who made a *payment*, or the promise of a *payment*, of \$100 or more to the *expenditure lobbyist* for the express purpose of funding any expenditure identified in subsection (c)(3)(A).
- (C) The outcome sought by the *expenditure lobbyist*.
- (4) a statement by a duly authorized owner or officer of the *expenditure lobbyist* that he or she has reviewed the contents of the quarterly disclosure report and verified under penalty of perjury that based on personal knowledge or on information and belief, that he or she believes such contents to be true, correct, and complete.
- (5) the printed name, title, and original signature of the individual making the statement required by subsection (c)(4).
- (6) any other information required by the *Enforcement Authority* or the *City Clerk* consistent with the purposes and provisions of this division.

#### §27.4018 Amendments to Quarterly Disclosure Reports

Any *lobbying entity* that discovers incomplete or inaccurate information in a quarterly disclosure report that it filed with the *City Clerk* shall, within ten calendar days of the discovery, file an amended quarterly disclosure report with the *City Clerk* disclosing all information necessary to make the report complete and accurate.

#### §27.4019 Retention of Records

In addition to any other requirement of this division, every *lobbying entity* shall retain for a period of five years all books, papers, and documents necessary to substantiate the quarterly disclosure reports required to be made under this division.

#### §27.4022 Termination of Status as Lobbying Firm or Organization Lobbyist

A *lobbying firm* or *organization lobbyist* that ceases being a *lobbying entity* shall notify the *City Clerk* of this status upon the quarterly disclosure report form provided by the *City Clerk*. Upon terminating, the *lobbying firm* or *organization lobbyist* shall report any information required by section 27.4017 that has not been reported since its last quarterly disclosure report.



000599

Every *lobbyist* shall:

- (a) disclose his or her status as a *lobbyist* to a *City Official* before making any *activity expense* to, or for the benefit of, that *City Official* or that *City Official's immediate family*;
- (b) abstain from doing any act with the purpose or intent of placing a *City Official* under personal obligation to the *lobbyist*, or to the *lobbyist's* employer or *client*;
- (c) correct, in writing, any misinformation given to a *City Official*, specifying the nature of the misinformation;
- (d) not deceive or attempt to deceive a *City Official* as to any material fact pertinent to any pending or proposed *municipal decision*;
- (e) not cause any communication to be sent to a *City Official* in the name of any fictitious *person*, or in the name of any real *person* without the consent of such real *person*; and,
- (f) not attempt to evade the obligations in this section through indirect efforts or through the use of *agents*, associates, or employees.

§27.4024

**Employment of City Official or Employees by Lobbying Entity**

If any *lobbying entity* employs or retains a current *City Official* or *City* employee, or any member of that official's or employee's *immediate family*, that *lobbying entity* shall file a written statement with the *City Clerk* within ten calendar days after such employment commences. This statement shall set forth the name of the individual employed, the date the individual was first employed by the *lobbying entity*, and the individual's position, title, and department in the *City*.

§27.4030

**Gifts from Lobbying Entities and Lobbyists**

- (a) It is unlawful for a *lobbying firm* or any of its *lobbyists* to make a *gift*, act as an *agent* or intermediary in the making of a *gift*, or arrange for the making of a *gift* if:
  - (1) the *gift* is given to a *City Official*, and
  - (2) the aggregate value of all *gifts* from the *lobbying firm* and its *lobbyists* to that *City Official* exceeds \$10 within a calendar month.
- (b) It is unlawful for a *organization lobbyist* or any of its *lobbyists* to make a *gift*, act as an *agent* or intermediary in the making of a *gift*, or arrange for the making of a *gift* if:
  - (1) the *gift* is given to a *City Official*, and
  - (2) the aggregate value of all *gifts* from the *organization lobbyist* and its *lobbyists* to that *City Official* exceeds \$10 within a calendar month.

(c) For purposes of this section, an entity or individual "arranges for the making of a *gift*" if the entity or individual, either directly or through an *agent*, does any of the following:

- (1) delivers a *gift* to the recipient;
- (2) acts as the representative of the donor, if the donor is not present at the occasion of a *gift*, except when accompanying the recipient to an event where the donor will be present;
- (3) invites or sends an invitation to an intended recipient regarding the occasion of a *gift*;
- (4) solicits responses from an intended recipient concerning his or her attendance or nonattendance at the occasion of a *gift*;
- (5) is designated as the representative of the donor to receive responses from an intended recipient concerning his or her attendance or nonattendance at the occasion of a *gift*; or,
- (6) acts as an intermediary in connection with the reimbursement of a recipient's expenses.

#### §27.4040 Powers and Duties of the City Clerk

- (a) Upon receipt of a written request, the *City Clerk* may issue a notice of filing obligations to any *person* whom a *City Official* or any other *person* has reason to believe should file a registration form or quarterly disclosure report under this division. Before sending the notice, the Clerk:
  - (1) shall require the *City Official* or *person* making the request to provide a written statement of the factual basis for the belief; and,
  - (2) shall determine whether sufficient facts exist to warrant sending the notice.
- (b) Any *person* who in good faith and on reasonable grounds believes that he, she, or it is not required to comply with the provisions of sections 27.4007 or 27.4015 by reason of being exempt under any provision of this division shall not be deemed to have violated the provisions of these sections if, within ten calendar days after the *City Clerk* has sent specific written notice, the *person* either complies with the requirements of this division, or furnishes satisfactory evidence to the Clerk that he, she, or it is exempt from filing obligations.
- (c) As soon as practicable after the close of each quarter, the *City Clerk* shall complete a summary of the information contained in registration forms and quarterly disclosure reports required to be filed under the provisions of this division. This summary shall be forwarded to the Mayor, City Council, and the *Enforcement Authority*.
- (d) The *City Clerk* shall preserve all registration forms and quarterly disclosure reports required to be filed under this division for a period of five years from the date of filing. These registration forms and quarterly disclosure reports shall constitute part

000601

of the public records of the Clerk's office, and shall be open to public inspection. Copies shall be made available by the Clerk upon request and payment of any lawful copy charges.

- (e) The *City Clerk* shall report apparent violations of this division to the *Enforcement Authority*.
- (f) The *City Clerk* shall have the power to adopt all reasonable and necessary procedures to implement this division.

**§27.4041 Inspection of Forms and Reports**

- (a) The *City Clerk* shall inspect, or cause to be inspected, each registration form and quarterly disclosure report filed under this division within thirty calendar days after the filing deadline. The Clerk shall notify an entity to file a registration form or quarterly disclosure report under this division if it appears that the entity has failed to file as required by law or that the registration form or quarterly disclosure report filed by the entity does not conform to law.
- (b) Any entity notified to file an original or amended registration form or quarterly disclosure report shall file the form or report by the deadline imposed in the notification from the Clerk.

**§27.4045 Online Disclosure of Forms and Reports**

- (a) It is the intent of the *City* to implement an electronic filing system that facilitates the disclosure of *lobbying activities* engaged in by *lobbying entities*. When a practical and financially feasible electronic filing system has been implemented by the *City Clerk*, the provisions of this section shall be in effect.
- (b) Every *lobbying entity* required to file a registration form or quarterly disclosure report pursuant to this division shall use the *City Clerk's* electronic filing system to file online such forms or reports.
- (c) Every *lobbying entity* shall continue to file a paper copy of each form or report with the *City Clerk*. The paper copy shall continue to be the original form or report for audit and other legal purposes.
- (d) The information contained on a form or report filed online shall be the same as that contained on the paper copy of the same form or report that is filed with the *City Clerk*.

**§27.4050 Enforcement Authority: Duties, Complaints, Legal Action, Investigatory Powers**

- (a) Any *person* who believes that violation of any portion of this division has occurred may file a complaint with the *Enforcement Authority*.
- (b) The *Enforcement Authority* shall have such investigative powers as are necessary for the performance of the duties prescribed in this division. The *Enforcement Authority* may demand and shall be furnished any records that may prove or disprove the accuracy of information contained in a registration form or quarterly disclosure report. In the event that there is a claim that any such records are entitled

language added  
to address claim  
of attorney-client  
privilege

000602

to protection from disclosure under the attorney-client privilege, the *Enforcement Authority* shall be provided with sufficient documentation to verify the information to which the *City* is entitled under California Business and Professions Code section 6009.

- (c) The *Enforcement Authority* shall determine whether forms and reports have been filed as required and, if so, whether they conform to the requirements of this division.
- (d) The *Enforcement Authority* may elect to enforce the provision of this division administratively pursuant to Chapter 2, Article 6, Division 4, or may otherwise recommend or refer enforcement actions to the City Attorney or other law enforcement agency with jurisdiction.

§27.4055

#### Violations, Penalties and Defenses

- (a) Violations of this division may be prosecuted as misdemeanors subject to the fines and custody provided in San Diego Municipal Code section 12.0201. The *City* may also seek injunctive relief and civil penalties in the Superior Court pursuant to Municipal Code section 12.0202. In addition, if the matter is pursued by the *Enforcement Authority* as an administrative matter, any *person* found in violation is subject to the administrative penalties provided for in Chapter 2, Article 6, Division 4.
- (b) In addition to any other penalty or remedy available, if any lobbying entity fails to file any registration form or quarterly disclosure report required by this division after any deadline imposed by this division, that lobbying entity shall be liable to the *City* of San Diego in the amount of \$10 per calendar day after the deadline until the report is filed, up to a maximum amount of \$100.
- (c) Provisions of this division need not be enforced by the *City* Clerk if it is determined that the late filing was not willful and that enforcement of the penalty would not further the purposes of this division.
- (d) Provisions of this division shall not be waived if a registration form or quarterly disclosure report, or an amendment to correct any deficiency in a registration form or quarterly disclosure report, is not filed by the deadline imposed in the notification from the *City* Clerk of the filing requirement.
- (e) Any limitation of time prescribed by law within which prosecution for a violation of any part of this division must be commenced shall not begin to run until the *City's* discovery of the violation.